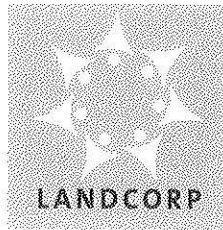


Enquiries : John Clifton (9482 7421)



Mr R Pullella
Executive Director Competition, Markets and Electricity
Economic Regulatory Authority
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Dear Mr Pullella

**WESTERN POWERS – REVISED PROPOSED ACCESS ARRANGEMENTS
FOR THE SOUTH WEST INTERCONNECTED NETWORK**

Reference is made to a Notice released on 17 January 2007, relating to proposed changes to access arrangements for the South West Interconnected Network.

LandCorp is the Western Australian Government's primary land developer, with projects distributed across the State including residential, commercial and industrial (heavy, general and special).

LandCorp also provides expert property and project management services to many Government agencies and assists with the remediation and reuse of brown field sites.

LandCorp has in its Townsite Development Projects experienced situations where in responding to demand the demand for new land results in upgrades of infrastructure and supply capacity. It is often the case where the cost of the upgrades becomes a cost of that land release and it is apparent that benefits extend to other (future and existing) users in the town or region. In some circumstances, the current pricing regime stifles the continuing development of towns.

LandCorp supports the initiative to review and consult on the future arrangements relating to access and development costs. The proposed access arrangements are very much of interest to LandCorp and will impact on its operations State-wide. Comments are provided overleaf.



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1. Unilateral determination to reduce contracted capacity of a network user

It is noted the proposed change is for Western Power to be able to make unilateral determinations to reduce / reallocate contracted capacity.

LandCorp understands the Government's approach generally is heavily based on engagement and consultation at a community, local and individual level. The approach has been substantially adopted by many agencies across the public sector including LandCorp.

Consultation is often followed by a determination and in line with this Government's approach (in the main) this can be subject to appeal / review by a body such as the State Administrative Tribunal.

At a more practical level, a land owner (for example proponent of a new industrial development) owns a site with the understanding of right to services supplied (implied and associated with the property). A process of unilateral removal may be perceived as a further Government reduction in property rights.

The ability to unilaterally redirect supply will create the perception of a new risk to landowners.

Given the proposed approach is against the general Government policy and creates risk and uncertainty, LandCorp recommends some reconsideration be given to this matter.

Notwithstanding the above comments, the arguments put forward to support the objectives of the ability to redirect capacity where underutilised is understood.

2. Headworks Changes

Various parts of Government have developed principles associated with Headworks charges.

The Western Australian Planning Commission's Statement of Planning Policy No. 3 "Urban Growth and Settlement", section 5.5 states "Developer Contributions should be consistent with the principles of need, nexus, equity and accountability and should always take account of housing affordability". Planning Bulletins 18 and 41 also relate to Developer Contributions.

The Urban Development Institute of Australia (Western Australian Division) in association with the Western Australian Local Government Association and the Department for Planning and Infrastructure has also prepared a Community Infrastructure Contributions Report which seeks to develop a model to support developer contributions. A copy of this report is attached for your consideration.

LandCorp recommends the process of determining headworks charges be developed in close consultation with the Western Australian Planning Commission and industry bodies such as the UDIA. It is unclear from the Notice what level of consultation has taken place in the lead up to calling for submissions.

From a practical point of view, LandCorp considers the definition of the region and process of applying headworks charges to be important. Where a headworks arrangement spans several towns of different 'significance', it is foreseeable the process may lead to service provision contrary to a whole-of-Government decision to prioritise resources and services to a larger and more regionally significant town. Regional context, priorities and policy direction may also need to be considered or incorporated into a headwork process.

At a more micro level and from a town development / land development perspective, the detail of a headwork charge process (once defined and communicated) does provide greater certainty to the process of bringing new land on to meet growth demands.

A distributed headworks process would also lower the barrier to bringing on new land, where a capacity upgrade is currently met by the developer (regardless of whether the upgrade also brings benefit to other consumers in the broader community). It is unclear how Government will fund the upfront infrastructure upgrade.

The increased certainty and lower barriers may come at a cost, where new land supply (not directly triggering a capacity upgrade) potentially attracts a 'new' and higher cost than would otherwise be the case under the current arrangements. In LandCorp's experience, the additional cost may be absorbed by the developer in the very short term, however the market price quickly adjusts with a lift in market pricing to reflect the new cost base. This pricing impact may also flow on to the 'value' / price of other (established) property.

The flow-on impact of adjusting a cost base at this time needs to be given some serious consideration. With a high potential for land in some towns (not benefiting from an increase in capacity) to experience price increases.

The changes in 'housing affordability' in Western Australia are well publicised and LandCorp recommends a considered approach be taken to cost arrangement adjustments that may be seen as a further (negative) impact on housing costs in the current markets.

As identified in this submission, there are several outstanding issues to be considered before a final position can be made.

LandCorp could work with Western Power and the Economic Regulatory Authority and use case studies to hypothetically assess how the proposed arrangements would be best finalised and practically implemented.

Overall LandCorp supports the initiative to review the arrangements relating to the provision of new services and capacity to regional towns.

For further information on LandCorp's comments, please contact John Clifton Manager Business Strategy (9482 7421 or john.clifton@landcorp.com.au).

Your sincerely

A handwritten signature in black ink, appearing to read 'F. Marra', with a stylized flourish at the end.

Frank Marra
ACTING CHIEF EXECUTIVE OFFICER

9 February 2007



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Recommendations

Recommendation 1

Planning Bulletins 18 and 41 be updated and amalgamated into a comprehensive State Planning Policy (SPP) on Development Contributions. Requirements for contributions beyond the standard provisions may be levied where justified and supported by provisions in a local planning scheme. This SPP would be reviewed on a regular basis.

Recommendation 2

The principles identified at the initial Workshop be incorporated into the new State Planning Policy.

Principles	
1. Transparency	Both the method for calculating the contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
2. Equity	Contributions should be levied from all developments within a development area, based on their relative contribution to need.
3. Certainty	All contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.
4. Efficiency	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.
5. Consistency	Contributions should be applied uniformly across a development area.
6. The need and the nexus	The need for the infrastructure must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
7. Right of consultation and review	Developers have the right to be consulted on the manner in which contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the contributions are not justified.
8. Accountable	There must be accountability in the manner in which contributions are determined and expended.

Recommendation 3

That the Western Australian system offer two ways of raising development contributions:

- Development contribution plans; and
- Voluntary agreements.

Recommendation 4

That development contributions be calculated on the basis of:

- Catchment areas for the facilities/services;
- The Need: clearly identified capital costs for the provision of facilities/services based on an analysis of demand or need; and
- The Nexus: identification of the proportion of use to be attributed to new growth (re the proportion of new growth generated by a particular development) and the proportion associated with servicing the needs of the existing community.

To support this calculation a local government would need to have:

- A community infrastructure plan for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments);
- A capital expenditure plan (with at least 5 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); and
- 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.

Recommendation 5

The arrangements for accounting for funds collected through development contributions should be as set out in Planning Bulletin 41. Cost contributions should be credited to a separate account established and managed in accordance with the *Local Government Act 1995*. Local Governments should publish and make available to owners an audited statement of accounts for the Development Contribution Area.

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1. Introduction

1.1 Background

The pressures of extraordinary growth on the capacity of local governments to deliver infrastructure and services to meet the needs of existing residents, and the rising expectations of local residents, have resulted in the need to consider contributions to assist with meeting the provision to support new development, whether this be in infill areas, greenfield sites or in non metropolitan areas.

This Report forms part of an ongoing work commissioned by the Urban Development Institute of Australia (UDIA) (WA Division), Western Australian Local Government Association (WALGA) and the Department for Planning and Infrastructure (DPI) to develop a model to support development contributions for community infrastructure. It is a follow up to the Infrastructure Workshop held in March 2006. The outcomes of this workshop are outlined below.

Outcomes from the UDIA and WALGA Infrastructure Workshop March 2006

In March 2006, 28 representatives from the UDIA and WALGA met jointly to discuss the issue of infrastructure funding at the Infrastructure Breakfast Forum Workshop. A number of outcomes were achieved during the three hour session.

Participants framed the discussions through several clarifications. Numerous points were emphasised:

1. The need to consider diverse perspectives in the discussion.
2. The need to clarify the scope of issues included under the banner of infrastructure funding discussions.
3. The strong historical basis on which these discussions will build.
4. The role of development contributions as just one of several components of a comprehensive infrastructure funding system.
5. The requirement for strategic infrastructure plans as a central component of a successful development contribution system.

Participants defined the problem facing the development of a system of development contributions. The group agreed nine principles by which the system must abide:

- | | | |
|-----------------|---------------------------|--------------------------|
| 1. Transparency | 4. Efficiency | 7. Staged implementation |
| 2. Equity | 5. Consistency | 8. Plenty of notice |
| 3. Certainty | 6. The need and the nexus | 9. Right of review |

Participants defined the specific elements of a system of development contributions that need to be agreed, namely:

1. An integrated strategic framework;
2. Agreed definition of scope and standard of capital infrastructure;
3. Consistency of common contribution standards;
4. Flexibility to deal with special situations; and
5. Linkages to Local government Financial management plans.

The group made several key resolutions to progress the decisions made during the workshop:

1. A letter on behalf of both groups should be sent to the Minister, Hon. Alannah MacTiernan MLA.
2. A smaller group of two UDIA representatives, two WALGA representatives, Marion Fulker, Allison Hailes and Ray Stokes will prepare a paper of further development options for consideration prior to the next UDIA/ WALGA discussion.
3. The smaller group is to present back to the 28 participants from this Workshop on specific issues relating to infrastructure funding at the next meeting.

1.2 Definitions

1.2.1 Infrastructure

All systems have different nomenclature to describe what is meant by the term infrastructure. At a high level, infrastructure is generally described as either:

- **Economic infrastructure** including water, sewerage, drainage, electricity, gas, telecommunications, public transport and roads etc; or
- **Social (community) infrastructure** including libraries, community centres, business incubators, sports grounds and parks etc.¹



This definition applies to items of a capital nature and does not include ongoing economic or community development programs. However, when there is a focus on long term community sustainability, the distinction is made between hard and soft infrastructure.

- **Hard infrastructure** is seen as the buildings, pipes, wires, roads, railways, playing fields etc – that is anything that has a tangible physical presence and is visible to the eye.
- **Soft infrastructure** is much less tangible and is seen as responding to the needs of the community whilst building the capacity of local people and groups to respond to current and future needs.²



A definition which addresses both the physical and the less tangible characteristics of community infrastructure is one developed by the New South Wales Department of Community Development:

“the structures, systems and capacities which help communities and neighbourhoods to function effectively”.

1.2.2 Development Contributions

The Western Australian Planning Commission *Planning Bulletin 18* defines development contributions as:

“Legally enforceable contributions that a developer is required to make for the provision of infrastructure and directly relate to the needs arising from the development.”

These contributions usually take three forms:

- *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.”*



1.3 Rationale

Local governments have a number of sources of funding for infrastructure:

- Federal assistance through the Financial Assistance Grants (generally only for operational expenditure);
- Federal assistance grants for specific network infrastructure (includes capital);
- State assistance through specific purpose grant programs and funding for capital infrastructure projects such as roads;
- Property rates;
- Proceeds from the disposal of assets;
- Fees and charges; and
- Borrowings.

In addition, local governments can use Local Planning Schemes (TPS) to levy contributions from developers for specific infrastructure associated with specified areas. The infrastructure that can be funded through a TPS is commonly restricted to that identified in the Western Australian Planning Commission's Planning Bulletin 18. Section 2.1 and Appendix A provide more details of what infrastructure can be funded through a TPS. Requirements for contributions beyond Planning Bulletin 18 have been applied where they are justified.

¹ Western Australian Legislative Assembly Public Accounts Committee (2004) *Inquiry into Developer Contributions for Costs Associated with Land Development*

² Casey, S (2005) *Establishing Standards for Social Infrastructure* (p8-9)

Since Planning Bulletin 18 was drafted in 1997, there have been significant changes in community expectations regarding the standards and timing of community infrastructure provision. Best practice examples where infrastructure (particularly landscaped parks and community buildings) has been provided in the early stages of development have helped to raise the community's expectations of what should be expected in a newly developed area.

Whilst the early provision of community infrastructure has been used by developers to provide a marketing edge, the current system governing infrastructure requirements has resulted in an inequitable system where some developers make a significant contribution to community infrastructure and some make none.

1.4 Why have community infrastructure contributions?

There are three main reasons for using development contributions to fund infrastructure provision:

1. When carefully applied they augment local government funds by taxing those who benefit directly from infrastructure improvement – that is they are focused;
2. It is economically efficient for development charges (reflecting the costs of infrastructure provision) to be levied on those responsible for the development so that infrastructure costs are included in development decision making; and
3. It is equitable to charge those individuals who benefit from public investment in infrastructure.

However, these benefits must be balanced by a transparent system of calculation that ensures that development contributions are not used to address previous under provision of infrastructure or inadequate maintenance and upgrading practices. They should also not be used to remedy existing deficiencies where infrastructure is not up to current standards. Some of the concerns about the application remedy existing of development contributions that have been identified include:

1. The inappropriate application of charges to an individual or development when they should be spread more widely;
2. The lack of consistency in the application of development contributions when relying on an essentially voluntary system;
3. Charges or standards for infrastructure provision that are excessive for their given purpose;
4. Residents of developments effectively paying twice for some items through both upfront charges and rates or ongoing charges;
5. Funds not being spent for the designated purpose; and
6. Lack of scope for (or excessive cost of) appealing against particular charges or requirements³.

In addition there is an ongoing debate on the impact of development contributions on the overall affordability of land and housing. This Paper does not pursue this issue, except to note that in the Australian system the end user always pays, in some form or other, for land, house and amenities of a particular standard. The pertinent question is whether this payment is contained within the land purchase prices, as development contributions, or paid over time in the form of rates, taxes and fees for service.

³ Productivity Commission (2004) *Inquiry into First Home Ownership* p165

2. Western Australian Context

2.1 Current Framework

The Western Australian Planning Commission has adopted draft model Local Planning Scheme provisions for development contributions (Planning Bulletin No 41) which were prepared by a working group comprising representatives of WALGA, UDIA, Australian Association of Planning Consultants and DPI (then Ministry for Planning).

The draft provisions for development contributions were prepared to:

- Introduce a mechanism to deal with cost contributions which relate to subdivision and development;
- Provide for the equitable sharing of infrastructure costs between owners, and in particular, to ensure that cost contributions are only required towards such infrastructure as is reasonably required as a result of the subdivision and development of land in the Development Contribution Area; and
- To coordinate the timely provision of infrastructure.

The draft model scheme text provisions set out a process for preparing development contribution plans which provides the basis for cost contributions for owners in a Development Contribution Area.

The provisions are based on special control area provisions contained in Part 6 of the draft model scheme text. A Development Contribution Plan is required to be prepared for a Development Contributions Area. The Development Contribution Area is identified on the Scheme Map as a special control area. The Development Contribution Plan does not have effect until it is incorporated as a schedule to Local Planning Schemes. Importantly, there is a transparent process for the introducing of development contributions requiring a Local Planning Scheme or scheme amendment.

The model provisions set out:

1. Principles for cost contributions:
 - Provide for cost contributions to only the cost of such infrastructure as fairly and reasonably relates to, and is reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;
 - Provide for contributions generally in accordance with the WAPC's policies on development contributions for infrastructure (Planning Bulletin 18);
 - Matters requiring land contributions, such as public open space, are to be treated as the cost of infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;
 - Cost contribution is to be based on the proportion of the area, or the value of that owner's land, it bears to the total area or value of the land within the Development Contribution Area;
 - Cost contribution is to take into account the highest and best uses attainable for the owner's land;
 - Cost of infrastructure is to be based on the amount spent, but when an expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government. These costs should be reviewed at least annually.
2. The area to which a Development Contribution Plan applies.
3. The infrastructure to be funded through the Development Contribution Plan.
4. Method for determining cost contributions and cost apportionment schedule which apportions costs to land owners in the area.
5. The operative period of the Development Contribution Plan (not more than 5 years). This may be extended and the Development Contribution Plan amended accordingly. An extension would require a Local Planning Scheme amendment.
6. Administration of funds collected through the Development Contribution Plan:
 - Funds for each Development Contribution Area are to be held in separate reserve accounts established and managed in accordance with the Local Government Act 1995;
 - The local government is to provide to every owner an audited annual statement of accounts for that Development Contribution Area as soon as practicable.

Under the *Planning and Development Act 2005*, local governments can also use town planning development or resumptive schemes to coordinate land development and cost sharing for infrastructure.

It is already the practice in Western Australia for the infrastructure within a subdivision to be provided by the developer. **Table 1** summarises the infrastructure contributed by developers as part of the subdivision process. **Appendix A** provides a full listing of Development Contribution Arrangements for the provision of infrastructure as found in Schedule 1 of Planning Bulletin 18 (1997).

Table 1 : Development Contributions Towards Land Development

Land Contributions	Infrastructure Works	Monetary Contributions
Public open space equivalent to 10 percent of the gross subdivisional area, or alternatively, a cash-in-lieu contribution subject to agreement between the developer, WAPC and local authority;	Reticulation of: <ul style="list-style-type: none"> • Water; • Sewerage; • Drainage works; and • Electricity supply infrastructure. <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>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 accessways and dual-use paths where required (generally along one side of a road);</p> <p>Upgrading, construction and widening of existing roads and right of ways to accommodate additional traffic generated by a subdivision; and/or</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>	Standard water, sewerage and drainage headworks charges for off-site major infrastructure works; and
Certain land for foreshore reserves on the coast, rivers and lakes – normally the requirement is 30 metres and wetland and wetland buffers;		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.
Land for government primary schools – generally four hectares per school, but may be reduced to 3.5 hectares if the school site is co-located with public open space;		
Land for widening existing roads where the subdivision induces additional traffic movements;		
Land for district distributor roads in new development areas that expand the urban front; and/or		
Land for primary distributor roads and railway reserves where justified by the subdivision.		

Source: Public Accounts Committee (2004) *Inquiry into Developer Contributions for Costs Associated with Land Development* p81-82

2.2 Specific Examples of Development Contribution Agreements

There are a number of examples of development contribution models currently operating within the Western Australian context. These have been established on a voluntary basis except the SEAS Agreement which is being implemented by an amendment to the City of Stirling TPS. Four examples are outlined in Table 2.

Table 2 : Examples of Development Contribution Agreements

Community Infrastructure and Facilities		
Elements	City of Swan/Multiplex Vale Community Facilities and Services Agreement	Shire of Capel Dalyellup Community Facilities Development Plan
Timeframe	July 2005 – July 2010	July 2005 – June 2015
Nature	Contribution of \$386 per lot (based on a \$ for \$ matching by both the City and Multiplex) on all lots sold, CPI adjusted on an annual basis. Based on legal agreement	Per dwelling site contribution of \$565 to be matched by the Shire of Capel Supported by Town Planning Scheme N° 9
Purpose	Community facilities and services as endorsed by the Vale Community Committee and approved by the City including sport and recreation facilities, community halls, environmental centres, health clinics, not for profit facilities etc and community development officers, community support services, cultural activities etc. Capital and operational	Funding of facilities as identified in the Community Facilities Development Plan Capital
Management	Vale Community Committee (VCC) (7 representatives – 2 from the City, 2 from Multiplex and 3 from the Vale community)	Managed by the local government
Accountability	Funds held in a City of Swan reserve account (Vale Community Facilities and Services Reserve Fund). All interest accruing to the Fund is added to fund. VCC develop an advanced 3 year budget and specific annual budget (budget determined by VCC, endorsed by Multiplex and approved by the City). Quarterly reporting on income and expenditure. Fund to operate in accordance with the <i>Local Government Act 1985</i>	Funds held in reserve account administered by the Shire for sole purpose of developing community facilities within Dalyellup. Fund to operate in accordance with the <i>Local Government Act 1985</i>
Public Open Space		
Elements	City of Stirling Scarborough Environs Area Strategy (SEAS)	City of Wanneroo/Satterley Property Group MOU Development of Knightsbridge Park Butler
Timeframe	Life of Project	Life of Project
Nature	Calculation of infrastructure costs based on a proportionate sharing of the additional densities benefits associated with the redevelopment. ⁴ Supported by amendments to the Town Planning Scheme (District Planning Scheme N° 2)	Calculation of the additional costs associated with long term management and maintenance of public open space in the Brighton Development. Agreed contribution to Local Economic Development Strategy (levy per lot).
Purpose	Contributions towards roads, streetscape improvements, major foreshore upgrade and redevelopment. Has to be a nexus between the infrastructure costs and the more intense development.	Supported by a legal agreement. <ul style="list-style-type: none"> • Establishment of POS • Contribution to Local Economic Development strategy • Contributions to community facilities including the Butler Community Centre
Management	N/A	N/A
Accountability	Reserve fund which complies with the <i>Local Government Act 1995</i>	Reserve fund which complies with the <i>Local Government Act 1995</i>

⁴ Calculation of infrastructure contribution

$$\frac{\text{Specific Site Additional Plot Ratio}}{\text{Total additional Plot Ratio}} \times 50\% \text{ infrastructure costs}$$

Issues Associated with the Western Australian System

- There are some inconsistencies on the approach to the imposition of development contributions. The WAPC imposes conditions on subdivisions requiring development contributions. The scope is set out in Planning Bulletin 18. There is no consistent approach to development contributions by local agreements. Some local governments impose development contributions by way of scheme provisions consistent with Planning Bulletin 18. In other cases, development contributions are imposed by policy or agreements are reached with developers.
- There is a lack of strategic guidance in regional and local strategies for infrastructure needs and programs. This means that there is no clear understanding of the infrastructure required, when it is required and who is responsible for providing it.
- The provision of social infrastructure is not a current requirement by the current Western Australian system. In most other States, social infrastructure is included.

3. What Happens in Other States?

Most States in Australia have some form of regulated development contributions regime which requires developers to meet some or all of the costs of providing infrastructure to a development area. These may take the form of a simple set of subdivision requirements to cover all reticulated services and roads within a development area to those that consider the impact of a development on the provision and upgrading of infrastructure in a wider catchment area outside of the boundary of a development where there is a clear relationship between the development and the need for additional services. Whilst the initial focus is often on physical infrastructure (wires, pipes, drains and roads) most States have moved towards systems that include social infrastructure.

3.1 Evolution of Legislation

The statutory basis for development contributions was first articulated in Section 94 of the New South Wales *Environmental Planning and Assessment Act 1979*. This legislation formed the basis for local governments levying developers for the provision of infrastructure, services and amenities associated with new developments. It was not until 1989 that the levy was utilised by local governments. In 1992, as a result of an Inquiry, local governments were required to have completed Section 94 Development Contributions Plans before they could impose development contributions. Section 94 has been subject to two reviews since that time – *A Review of the Developer Charges System* conducted by the NSW Government in 2000 and a Report by the Section 94 Contributions and Development Levies Taskforce entitled *Funding Local Infrastructure in 2004*.

The 2004 report recommended some significant changes to Section 94. In particular, it recommended two extra ways of levying development contributions:

1. Voluntary planning agreements; and
2. Fixed development consent levies.

In addition, amendments to the legislation now enable cross boundary contributions – where a development contribution may be levied or imposed for the benefit of an adjoining council and adjoining councils may collectively develop development contribution plans and distribute monies between them.

The amendments to the *Environmental Planning and Assessment Act 1979* brought it more into line with the Victorian legislation that supported that State's system for development contributions – the *Planning and Environment Act 1987*. As with the New South Wales system, there was a delay between the initial proclamation of the Act and the development of Development Contribution Plans which formed the basis of development contributions. By 1996, only a handful of councils had developed Development Contribution Plans.

In 1999, the Bracks Government initiated a major review of the development contributions process. This review resulted in a simplification of the system.

There has been a significant increase in the level of sophistication in the legislative frameworks used to impose development contributions. This is illustrated by both the continuous amendments of legislation to meet the increasing complexity of the planning and development environment; and the shift in focus from an assessment basis to an integrated planning and infrastructure process to a sustainability focus (Table 3). In particular the New Zealand system, which is embedded in their *Local Government Act 2000*, focuses on the long term implications of growth and development for both local government and the community.

Table 3 : Evolution of Legislation Supporting Development Contributions

New South Wales 1979	Victoria 1987	Queensland 1997	Western Australia 1997	New Zealand 2000
Initially a levy on development.	Covered three types of levy: <ul style="list-style-type: none"> • DCPs; • Voluntary Agreements; and • Fixed levies. 	Development contributions clearly integrated into overall infrastructure plans. Provides for: <ul style="list-style-type: none"> • Priority Infrastructure Plans and related infrastructure charges; • Regulated infrastructure charges; and • Infrastructure agreements. 	Town Planning and Development Act 1928 provided for development schemes to coordinate subdivisions and equitable sharing of costs for infrastructure. Many development schemes prepared for areas of fragmented ownership in the 1960s – 1980s.	Emphasis on long term sustainability. Development contributions linked directly to local government: <ul style="list-style-type: none"> • Community Outcomes; • Long Term Council Community Plans; and • Financial management strategies.
Amended to require the development of Development Contribution Plans (DCPs).	Amended to: <ul style="list-style-type: none"> • Simplify the DCP process; and • Improve provisions for community infrastructure. 		Planning Bulletin 18 Developer Contributions for Infrastructure (1997) covers development contributions for infrastructure including principles, nature of contributions, standard conditions and contribution arrangements and methods for applying contributions. Planning Bulletin 41 Draft Model Scheme Text Provisions for Development Contributions (2000) <ul style="list-style-type: none"> • To introduce a mechanism to deal with cost contributions which relate to subdivision and development; • To provide for an equitable sharing of infrastructure costs between owners; and • To coordinate the timely provision of infrastructure by way of priorities in Local Planning Schemes. 	
Amended to provide a wider range of options (DCPs, Voluntary Agreements, fixed levies); and Enable cross local government plans and contributions.				
Current focus on the impact of growth and the linking of planning with infrastructure.	Current focus on the integration of planning and infrastructure to support Melbourne Growth Areas.		Planning Bulletin 51 Draft Model Text Provisions for Development Schemes (2001) contains model provisions based on Planning Bulletin 41 but adapted to development schemes.	

A summary of the types of systems for development contributions for all States is provided in Table 4.

Table 4: Summary of Development Contribution Practices

State	Legislative Framework	Details
Queensland	<i>Integrated Planning Act 1997</i> <i>Integrated Planning and Other Legislation Amendments Acts 2003 and 2004</i>	<p>Contributions for development infrastructure, including land or works for water, transportation and local services (eg. parks, community halls, libraries) may be levied by local councils:</p> <ol style="list-style-type: none"> 1. Under a Priority Infrastructure Plan (PIP); 2. Through an Infrastructure Agreement (between local government and a developer) for infrastructure provision or contributions; and 3. Conditions requiring the supply of non shared infrastructure (eg. internal works and connecting the site to shared works). <p>PIP forms part of the local planning scheme. It generally includes an Infrastructure Charges Schedule for levies. Low growth councils may use standard or regulated infrastructure charges.</p>
Victoria	<i>Planning and Environment Act 1987</i> Section 46M(1)	<p>Development contributions levied through:</p> <ol style="list-style-type: none"> 1. Approved Development Contribution Plans (DCP), enforced through the conditions attached to planning and building permits; 2. Conditions on planning permits (but unless these relate to a DCP these contributions must be for works or infrastructure on site); and 3. Voluntary Agreements (registered on the land title). <p>Voluntary Agreements may be used when a developer requests an amendment to a planning scheme or a planning permit.</p> <p>Set levies that restrict funds that can be collected through DCPs (eg. \$900 per residential dwelling for community infrastructure).</p> <p>Funding can be used for:</p> <ul style="list-style-type: none"> • Acquisition of land; • Construction of public transport Infrastructure; • Basic improvements to public open space; • Drainage works; and • Community facilities buildings. <p>Set levies restrict the amount that can be collected through DCP (for example there is a maximum per household that can be levied for community infrastructure).</p>
NSW	<i>Environmental Planning and Assessment Act 1979</i> Section 94	<p>May require development contributions (cash or in kind) for services and infrastructure based on approved contribution plans.</p> <p>Development contributions can also be levied through voluntary agreements and fixed levies.</p> <p>In general, funding can only be used for capital items such as:</p> <ul style="list-style-type: none"> • Land acquisition costs; • Public facilities that a local government has a responsibility to provide; and • Public facilities that are needed as a consequence of, or to facilitate, new developments.
South Australia	<i>Development Act 1993</i>	<p>At the time of land subdivision, provisions for dedicating up to 12% for public open space (or a cash contribution to POS).</p>
Tasmania	<i>Land Use Planning and Approvals Act 1993</i>	<p>Councils can establish funds for developers to contribute to car parking at a fixed cash rate if this is preferable to providing parking on site.</p>
New Zealand	<i>Local Government Act 2000</i>	<p>Agreements can be made between councils and developers. These may include provisions for payments or other contributions for infrastructure.</p> <p>Provides a framework for long term community planning and funding with development contributions being identified as one of the funding sources.</p>

3.2 Comparison of Models

Table 5 provides an overview of the characteristics of the four development contributions models. In general, there are many commonalities between the models. Many of the differences relate to the scale of application and the responsibilities of the local governments.

The Western Australian model is the only model that does not have a clear statutory basis. All of the other models are enshrined in legislation.

All models for development contributions have a series of principles that focus on the concepts of:

- need and nexus;
- reasonableness and fairness;
- equity and transparency; and
- efficiency and accountability.

The focus of the models is on contributions towards capital expenditure as it relates to the provision of physical infrastructure including community infrastructure. The Western Australian model is more limited in its application to community infrastructure.

Models offer a range of agreements including:

- development contribution plans
- voluntary agreements; and
- fixed levies.

All models require well documented justifications for the type and level of contributions. They have similar reporting and accountability requirements with the need for funds to be held in trust or reserve accounts. There are provisions in all of the models for price escalation and processes for returning unspent monies.

The New Zealand model is the most comprehensive with requirements for detailed planning (particularly financial) at the local level before development contributions can be levied. It should be remembered that local governments in New Zealand are much larger and have a much wider range of responsibilities than they do in Western Australia (including responsibility for essential services).

Table 5 : Comparison of Characteristics of Models for Development Contributions

	Victoria	New South Wales	New Zealand	Western Australia
Principles	<p>Development contributions must:</p> <ul style="list-style-type: none"> • Have a strategic basis; • Be justified; • Have a demonstrated nexus between new development and need for new infrastructure; • Must have a reasonable time horizon; • Represent a commitment by all parties; • Be accountable; • Be transparent; and • Must be in the Planning Scheme. 	<p><i>Reasonableness</i> in terms of nexus (the connection between development and demand created) and apportionment (the share borne by future development) and other relevant factors; and <i>Accountability</i> both public and financial.</p>	<p>The cost allocation process for development contributions must reflect the following principles:</p> <ul style="list-style-type: none"> • Equity • Efficiency • Consistency • Transparency • Practicality 	<p>Development must create or contribute to the need for the particular infrastructure or facility.</p> <p>Contribution must be:</p> <ul style="list-style-type: none"> • fair and reasonable and reflect the true costs of the infrastructure or facility; • fairly apportioned between multiple landowners proportional to the share of the need created by each landowner's subdivision; and • spent within a reasonable period of time. <p>There must be accountability in the manner in which contributions are determined and expended.</p>
Application	<p>Works in kind. Covers a wide range of infrastructure including:</p> <ul style="list-style-type: none"> • roads; • public transport 	<p>Capital costs including:</p> <ul style="list-style-type: none"> • Land acquisition; • Public facilities that a council has the responsibility to 	<p>Development contributions may be required in relation to developments if the effect of the developments is to</p>	<p>Development contributions usually take three forms:</p> <ul style="list-style-type: none"> • The ceding of land for roads, public open

	Victoria	New South Wales	New Zealand	Western Australia
	<p>infrastructure:</p> <ul style="list-style-type: none"> • basic improvements to POS; • drainage works; and • community facilities. <p>Also allows for the acquisition of land to facilitate any of the above.</p>	<p>provide; and</p> <ul style="list-style-type: none"> • Public facilities that a council has the responsibility to provide. <p>Contributions can only be applied to the capital funding.</p>	<p>require new or additional assets or assets of increased capacity and, as a consequence, the territorial authority incurs capital expenditure to provide appropriately for:</p> <ul style="list-style-type: none"> • Reserves; • Network infrastructure; and • Community infrastructure. 	<p>space, primary school sites, drainage and other reserves:</p> <ul style="list-style-type: none"> • Construction of infrastructure works which are transferred to public authorities on completion; and • Monetary contributions to acquire land or undertake works by public authorities or others.
Mechanisms	<ul style="list-style-type: none"> • Development Contribution Plans • Voluntary Agreements • Standard Levies <p>Only one form of contribution mechanism can be used.</p>	<ul style="list-style-type: none"> • Section 94 Contributions Plan • Voluntary Planning Agreements • Fixed Levies 	<p>Development Contributions Policies that must relate to and be integrated into the Councils LTCCP, Financial Management Plan and Asset Management Plans.</p>	<p>Identification of special areas and incorporated in Local Planning Schemes as per Planning Bulletins 18 and 41.</p>

4. Proposed Approach

4.1 Determine what development contributions can be levied for

Current Situation

Planning Bulletin 18 defines development contributions as:

"Legally enforceable contributions that a developer is required to make for the provision of infrastructure and directly relate to the needs arising from the development."

These contributions usually take three forms:

- *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.*

The Queensland system uses the terms *development infrastructure* which is defined as:

"Land or works; or land and works, for water cycle infrastructure (including water supply, sewerage, drainage and water quality), transport infrastructure and local community infrastructure."

Any infrastructure that falls under this definition can be charged for under an ***Infrastructure Charges Schedule***.

The Victorian system uses the following definition of *development infrastructure* to include:

- *the construction of drainage works;*
- *land forming and landscaping of public open space;*
- *the construction and installation of lighting, street furniture, seating, signage, fencing and playground equipment;*
- *the construction and landscaping of roads, footpaths and bike paths;*
- *the construction of traffic management devices;*
- *the construction of public transport infrastructure, including fixed rail, bus and tram stops, and stations;*
- *the acquisition of land for roads, public transport corridors, drainage purposes, public open space, and community facilities; and*
- *buildings and works for or associated with the construction of maternal and child health care centres, child care centres, kindergartens, or any centre which provides these facilities in combination.*

All of these can attract a Development Contribution Levy.

The NSW system allows for contributions to be sought for:

- *Capital costs including land acquisition costs;*
- *Public facility that a council has responsibility to provide;*
- *Public facilities that are needed as a consequence of, or to facilitate, new development.*

Section 94 can only be applied to the capital funding of facilities. The only recurrent funding permitted is the ongoing maintenance of roads where heavy vehicular traffic movement arises directly from a specific development activity such as mining.

In New Zealand, development contributions can only be used for capital expenditure where the effect of a development is to:

"require new or additional assets or assets of an increased capacity and, as a consequence, the territorial authority (local government) incurs capital expenditure to provide appropriately for:

- *Reserves*
- *Network infrastructure*
- *Community infrastructure."*

Network infrastructure is defined as “the provision of roads and other transport, water, wastewater, and stormwater collection and management.”

Community infrastructure means land, or development assets on land owned or controlled by the territorial authority to provide public amenities; and includes land that the territorial authority will acquire for that purpose.

There needs to be a clear distinction between capital and recurrent funding. In general, development contributions are used to fund capital expenditure. Most legislation focuses on capital with very specific conditions where it may be appropriate to fund recurrent expenditure. There are very few instances of development contributions being applied to recurrent funding, and when they do, it is strictly time limited and related to a specific capital item.

Recommendation 1

Planning Bulletins 18 and 41 be updated and amalgamated into a comprehensive State Planning Policy on Development Contributions. Requirements for contributions beyond the standard provisions may be levied where justified and supported by provisions in a local planning scheme. This SPP would be reviewed on a regular basis.

4.2 Define the principles under which they can be levied

Current Situation

Planning Bulletin 18 provides the principles that are currently used for levying development contributions in Western Australia:

- The subject subdivision must create or contribute to the need for the particular infrastructure or facility for which the contribution is being sought.
- The contribution must be fair and reasonable and reflect the true costs of the infrastructure or facility.
- The contribution should be fairly apportioned between multiple landowners proportional to the share of the need created by each landowner's subdivision.
- A financial contribution must be spent within a reasonable period of time.
- There should be accountability in the manner in which contributions are determined and expended.

Table 6 provides some examples of the principles and definitions that apply to the process for determining development contributions.

Table 6 : Principles for Applying Development Contributions

Productivity Commission	Victoria	New South Wales	UDIA
<p><i>Necessary</i> – with the need for the infrastructure concerned clearly demonstrated;</p> <p><i>Efficient</i> – justified on a whole of life cost basis, consistent with maintaining financial disciplines on service providers by precluding over recovery of costs;</p> <p><i>Equitable</i> – with a clear nexus between benefits and costs, and only implemented after industry and public input.</p>	<p>Development contributions must:</p> <ul style="list-style-type: none"> • Have a strategic basis; • Be justified; • Have a demonstrated nexus between new development and need for new infrastructure; • Must have a reasonable time horizon; • Represent a commitment by all parties; • Be accountable; • Be transparent; and • Must be in the Planning Scheme. 	<p><i>Reasonableness</i> in terms of nexus (the connection between development and demand created) and apportionment (the share borne by future development) and other relevant factors; and</p> <p><i>Accountability</i> both public and financial.</p>	<ul style="list-style-type: none"> • Necessary; • Directly related to the proposed development; • Equitably applied to all development projects; • Applied in an open and transparent manner; • Calculated using an agreed, consistent and certain methodology; • Easy to understand and calculate; • Fair and reasonably related to the scale of the proposed development; and • Be fair and reasonable in all other respects.

Recommendation 2

The principles identified at the initial Workshop be incorporated into the new State Planning Policy.

Principles	
9. Transparency	Both the method for calculating the contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
10. Equity	Contributions should be levied from all developments within a development area, based on their relative contribution to need.
11. Certainty	All contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.
12. Efficiency	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.
13. Consistency	Contributions should be applied uniformly across a development area.
14. The need and the nexus	The need for the infrastructure must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
15. Right of consultation and review	Developers have the right to be consulted on the manner in which contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe the contributions are not justified.
16. Accountable	There must be accountability in the manner in which contributions are determined and expended.

4.3 Determine the methods for levying development contributions

Current Situation

The Western Australian system supports Development Contribution Plans through Local Planning Schemes and recognises voluntary agreements.

Most systems offer three ways of raising development contributions:

- Development contribution plans;
- Voluntary agreements; and
- Fixed levies.

Table 7 shows the application of these three methods, referenced to the New South Wales system.

Table 7: Possible Methods for Levying Development Contributions Compared with the Current NSW System

Method	Application/Issues
Development Contributions Plan <i>would be suitable for multiple land owners where there is rapid growth</i>	Application <ul style="list-style-type: none"> • Optimum where growth is faster and higher levels of contributions are able to offset the considerable administration costs, financial risks and inefficiencies of managing money amongst and within the funds • Areas with multiple owners who are unable to co-ordinate in offering dedications or works-in-kind Key Issue <ul style="list-style-type: none"> • Substantial work required to satisfy statutory requirements compared with potential benefits
Section 94 development contributions	
Fixed Levies <i>(those calculated as a standard) are most appropriate for small scale developments where the burden of drafting and administering a development contribution plan is likely to be</i>	Application <ul style="list-style-type: none"> • Little growth and slow accrual of funds in established urban areas or rural areas, or where provision of facilities benefits a dispersed set of contributors • Areas with multiple ownership with little scope for land dedications or works-in-kind • Costs of needed infrastructure are relatively low and spread over time

Method	Application/Issues
greater than the benefits gained for contributions Section 94A levy	Key Issue <ul style="list-style-type: none"> • Lower level of contributions but greater flexibility in expenditure • The application of fixed fees is not consistent with the principles of need, nexus and transparency
Voluntary Agreements are best used for large scale developments where there is a single developer and a long timeframe. These would be suitable for areas like St Andrews and Amarillo. Planning agreements	Application <ul style="list-style-type: none"> • One or few owners that have an incentive to fund infrastructure • More successful where major growth or development occurs in a distinct area • Can offer different and better outcomes through efficiencies in the process or through innovation by the parties Key issue <ul style="list-style-type: none"> • Whether the outcomes worth the substantial effort required to implement a satisfactory agreement

Source: Modified from Department of Infrastructure Planning and Natural Resources (2005) *Developer Contribution Practice Note*

What is essential is that there is consistency in the application of methods and that both developers and local governments are treated fairly and equitably. The use of fixed levies as a method of collecting development contributions is inconsistent with the principle of demonstrating a need and a nexus and should be discounted for this reason.

There is nothing that would preclude neighbouring local governments from developing joint Development contribution Plans that could address across boundary infrastructure issues. Where local governments developed joint Development Contribution Plans, all of the participating local government would be required to incorporate the Plan and define Development Contribution Areas in their Local Planning Schemes.

Recommendation 3

That the Western Australian system offer two ways of raising development contributions:

- Development contribution plans; and
- Voluntary agreements.

4.4 Develop detailed methods for calculating contributions

Current Situation

Planning Bulletin 41 defines the principles for Cost Contributions Plans for Development Contribution Areas:

- it is to provide for Cost Contributions to only the cost of such Infrastructure as fairly and reasonably relates to, and is reasonably required as a result of, the subdivision and development of land in the Development Contribution Area;*
- it is to provide for Cost Contributions generally in accordance with the Commission's policies on development contributions for Infrastructure;*
- matters requiring land contribution, such as public open space, are to be treated as the cost of Infrastructure with any necessary adjustments to establish, where appropriate, a money equivalent;*
- the Cost Contribution is to be based upon the proportion that the area or value of that Owner's land bears to the total area or value of land within the Development Contribution Area;*
- the Cost Contribution is to take into account the highest and best uses attainable for the Owner's land; and*
- the cost of Infrastructure is to be based on amounts expended, but when an expenditure has not occurred, it is to be based on the best and latest estimated costs available to the local government.*

Development Contribution Systems in Queensland, New South Wales and New Zealand are supported by standards for calculating development contributions. Local governments are required to publish their calculations with the development contribution plans.

4.4.1 New Zealand Model

The New Zealand system identifies the following characteristics for a cost allocation model:

Equity	Efficiency	Consistency	Transparency	Practicality
<p><i>Causation</i> – costs should be allocated to those who cause them to occur</p> <p><i>Benefit</i> – costs should be allocated to those who benefit from them</p>	The allocation of costs should result in resource decisions that maximise social well being	Developments of a similar nature should be charged similar amounts	Both the method and the manner in which it is applied should be transparent	The complexity of the allocation method should match the matter to which it is applied

Requirements

1. Service standards
Full and detailed information on services provided relating to:
 - Quantity;
 - Quality; and
 - Performance.
2. Drivers of expenditure
Identify the works driven by **growth** as opposed to those driven by other requirements such as renewals, improvements to service delivery standards and 'catch up' spending on assets.
3. Surplus capacity
Need to identify whether there is existing capacity within the system that has already been paid for (**surplus capacity**).
4. Allocating costs to units of demand
Units of demand include
 - Household unit equivalents (based on occupancy rates ie. 2.2 persons per household);
 - Area of catchment (for works that are not directly influenced by population such as stormwater drainage); and
 - Gross floor area for commercial developments.

4.4.2 New South Wales

Randwick City Council

Calculation of levies for public open space and community facilities is based on:

- schedules of work to identify costs;
- estimate of the number of new dwellings to be created over the next five years (3.2% growth rate and 1,600 net additional dwellings); and
- proportion of total expenditure between demand created by new development and that created through existing development (25% new development and 75% existing development).

EXAMPLE

Calculations

$$\text{CRES} = (25\% \times \text{TOS} \div \text{NDWGS}) + (25\% \times \text{TCF} \div \text{NDWGS})$$

where

CRES contribution rate for net new residential development

TOS the total cost of open space/recreation works from Schedule of Works (eg. \$13,115,000)

TCF the total cost of community facilities from Schedule of Works (\$1,450,000)

NDWGS the number of additional dwellings estimated to be built over the next 5 years (1,600)

$$\begin{aligned} \text{CRES} &= (25\% \times \$13,115,000 \div 1,600) + (25\% \times \$1,450,000 \div 1,600) \\ &= \$2,049 + \$906 \\ &= \$2,955 \end{aligned}$$

⁵ Assumption that open space and community facilities will be utilised on the basis of 25% new development and 75% existing residents

That is, the open space/recreation component is **\$2,049** per dwelling and the community facilities component is **\$906** per dwelling.

Based on an average dwelling occupancy rate of 2.4 persons per dwelling, the rate per occupant of new development is:

COCC = $\text{CRES} \div 2.4$

where

COCC the contribution rate per occupant of new development

COCC = $\$2,049 \div 2.4$

Open space = **\$854 per person**

COCC = $\$906 \div 2.4$

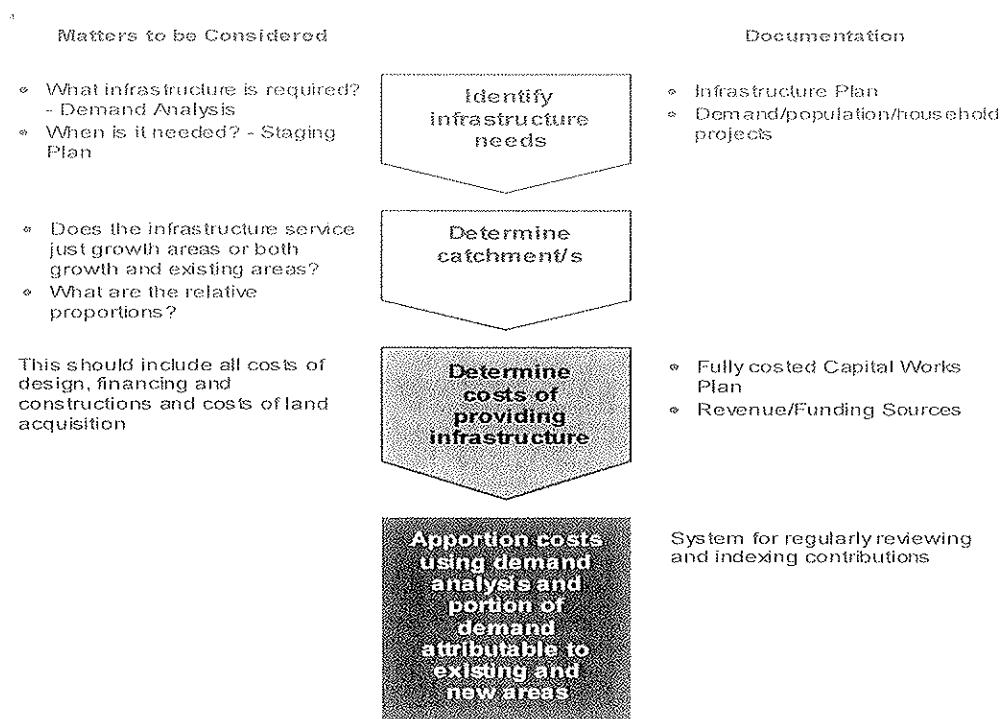
Community = **\$378 per person**

4.4.3 Queensland

The Queensland system relies on the creation of Infrastructure Charging Schedules which require a clear link between the infrastructure to be charged for and the Priority Infrastructure Plan. The process for determining appropriate charges is as follows:

1. Identify the infrastructure to be charged for
2. Determine the catchment area for that particular infrastructure
3. Determine what is to be included in the charges
4. Determine liability and apportionment
 - Define catchment, establish existing demand and ultimate demand
 - Define and value existing infrastructure
 - Determine required infrastructure at ultimate demand
 - Establish total cost of new and existing infrastructure at ultimate demand
 - Divide the total costs of new and existing infrastructure by the ultimate demand to determine the infrastructure charge.

Suggested process for calculating development contributions



Recommendation 4

That development contributions be calculated on the basis of:

- Catchment areas for the facilities/services;
- The Need: clearly identified capital costs for the provision of facilities/services based on an analysis of demand or need; and
- The Nexus: identification of the proportion of use to be attributed to new growth (re the proportion of new growth generated by a particular development) and the proportion associated with servicing the needs of the existing community.

To support this calculation a local government would need to have:

- A community infrastructure plan for the area identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments);
- A capital expenditure plan (with at least 5 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); and
- 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.

4.5 Accountable system for managing funding

Current Situation

- Funds for each Development Contribution Area are to be held in separate reserve accounts established and managed in accordance with the *Local Government Act 1995*;
- The local government is to provide to every owner an audited annual statement of accounts for that Development Contribution Area as soon as practicable.

It is essential that any system for development contributions includes a mechanism that ensures that the funds are used for the purpose for which they are collected.

The New South Wales *Environmental Planning and Assessment Act 1979* Regulations relating to Section 94 requires Council to maintain or provide:

- A contributions register;
- Accounting records that allow monetary Section 94 contributions and Section 94A levies (and additional amounts earned from their investment) to be distinguished from all other money held by Council; and
- An annual statement of all contribution plans.

Recommendation 5

The arrangements for accounting for funds collected through development contributions should be as set out in Planning Bulletin 41. Cost contributions should be credited to a separate account established and managed in accordance with the *Local Government Act 1995*. Local Governments should publish and make available to owners an audited statement of accounts for the Development Contribution Area.

Appendix A: Planning Bulletin 18 Schedule 1

Appendix B: Specific Examples

VICTORIA

Enabling Legislation	<i>Planning and Environment Act 1987</i>
Application	<p>Development contributions are payments for works-in-kind towards the provision of infrastructure made by the proponent of a development. They cover:</p> <p>(a) Acquisition of land for:</p> <ul style="list-style-type: none"> • Roads • Public transport corridors • Drainage • Public open space, and • Community facilities including, but not limited to those listed under (f); <p>(b) Construction of roads (including bicycle and footpaths, and traffic management and control devices);</p> <p>(c) Construction of public transport infrastructure, including fixed rail infrastructure, railway stations, bus stops and tram stops;</p> <p>(d) Basic improvements to public open space including earthworks, landscaping, fencing, seating and playground equipment;</p> <p>(e) Drainage works; and</p> <p>(f) Buildings and works or associated with the construction of an maternal and child health care centre; a childcare centre; a kindergarten; or any centre which provides these facilities in combination (Section 46M(1)).</p>
Mechanisms for raising contributions	<p>Development Contribution Plans (DCP)</p> <p>A DCP is a mechanism used to levy new developments for contributions to planned infrastructure need by the future community. It forms part of a planning scheme. The Minister for Planning approves the DCP by approving amendments to planning schemes to incorporate DCPs.</p> <p>The Principles of a DCP are:</p> <p>Strategic basis: It must be strategically linked to the State Planning Policy Framework or the Local Planning Policy Framework;</p> <p>Justified: Infrastructure projects can be included in a DCP if they will be used by the future community of an area, including existing and new development;</p> <p>Nexus between new development and need for new infrastructure: It must be demonstrated that the development to be levied is likely to use the infrastructure to be provided;</p> <p>Must have a reasonable time horizon: A DCP must include a time horizon which should not exceed 20 – 25 years;</p> <p>Commitment: A DCP imposes a binding obligation on an infrastructure provider to provide the infrastructure by the date or criteria specified in the DCP;</p> <p>Accountability: Levies collected must be used to provide the infrastructure specified, proper financial accounts must be kept to demonstrate this;</p> <p>Transparency: All assumptions relating to the calculations of levies within the DCP must be documented and justified; and</p> <p>Must be in the Planning Scheme: Development contributions can only be levied through an approved DCP.</p> <p>Section 46K(1) describes the mandatory contents of a DCP:</p> <ul style="list-style-type: none"> • Clearly identified geographic area that the DCP applied to; • Schedule of infrastructure to be funded (including classification as either development or community infrastructure and timing for provision); • Relates need to the proposed development; • Specifies estimated cost and the proportion of this cost which would be funded as a levy; and • Describes the method for calculating levies. <p>Voluntary Agreements</p> <p>VAs provide an alternative mechanism to DCPs for obtaining development contributions. They can be negotiated between the council, landowners and other parties at the time that a development proposal is considered.</p> <p>VAs can provide for:</p> <ul style="list-style-type: none"> • costs and standards of infrastructure provision; • timing of infrastructure provision;

- parties' obligations to provide infrastructure;
- timing of payments towards infrastructure;
- refunding of cash contributions;
- upfront provision of infrastructure by one land owner and the reimbursement of the costs by other landowners as they develop; or
- work-in-kind in lieu of a cash contribution.

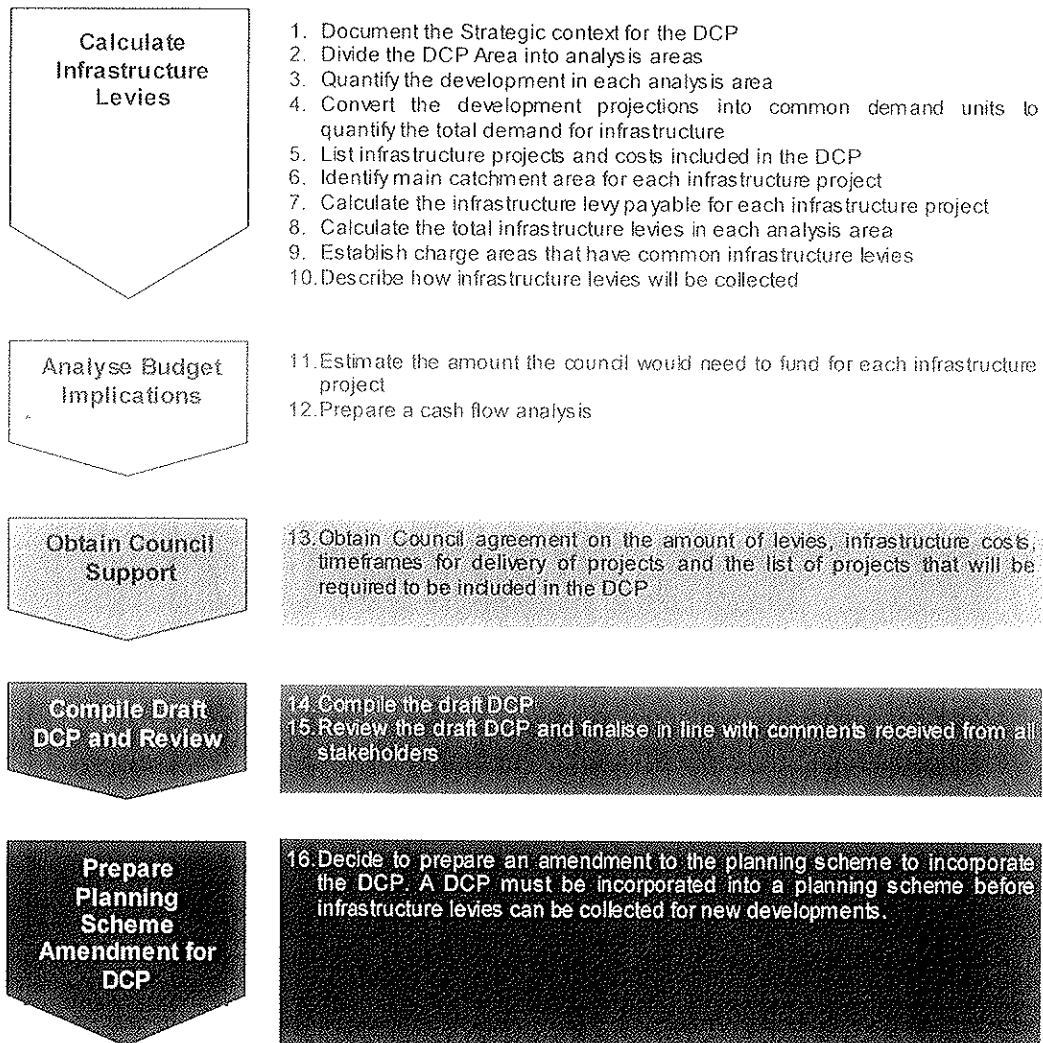
Section 173 provides a mechanism for VAs between the responsible authority, the landowner and other parties. The agreements are binding on the owner and subsequent owners of the land that is affected by the agreement. It is usually registered on the title of the land that is affected.

VAs can be initiated when the council considers a planning scheme amendment request or when it considers a planning permit application.

Conditions on Planning Permits

Section 62 establishes the circumstance under which a planning permit condition can be used to require payment for or provision of infrastructure.

The process for developing Development Contribution Plans is outlined below.



Specific Example

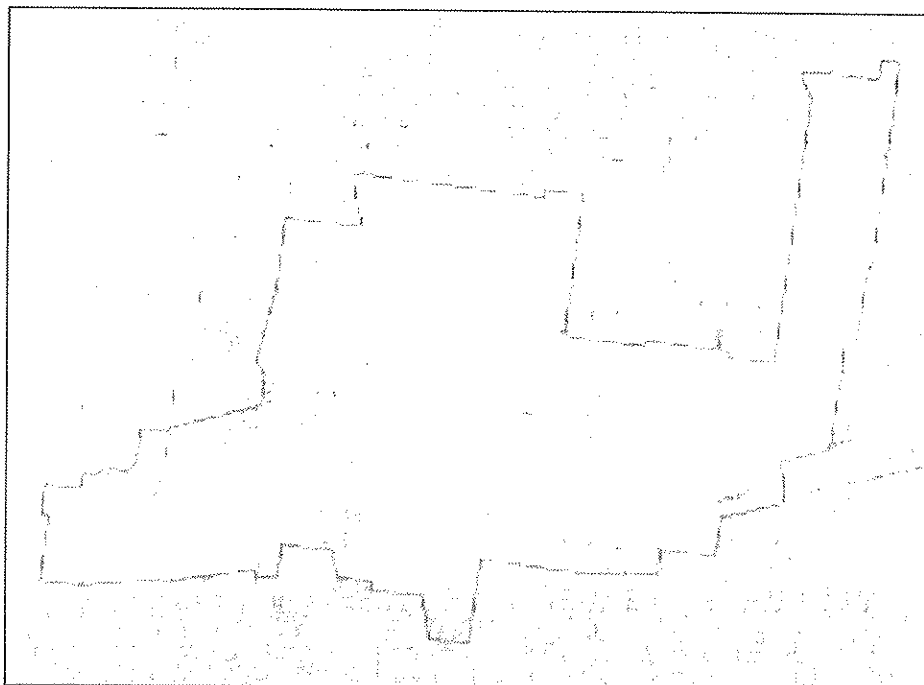
City of Manningham Doncaster Hill Development Contribution Plan (June 2003)

The Doncaster Development Contribution Plan relates to the Doncaster Hill Activity Centre, an area that will become the hub of the Manningham City Municipal Area, with a view to creating:

- higher density housing;
- major improvements to the public domain;
- better public transport services; and
- enhanced traffic management services.

It is expected to accommodate some 8,300 residents and represent an investment of in excess of \$42m over the next 20 years. The projects are to be funded on the basis of \$12.5m through public open space contributions and \$29.5 through the Development Contribution Plan. The extent of the Development Contribution area can be seen in **Figure 1**.

Figure 1: Doncaster Hill Activity Centre Boundary



The infrastructure charges per unit of residential development and per 121 sqm of commercial floor space and 19sqm of retail floor space are outlined below.

Analysis Area: Doncaster Hill Activity Centre						
Infrastructure Project Category	Development Infrastructure				Community Infrastructure	Total
	Transport	Streetscape	Public Art	Social	Social	
Residential Unit of Development	\$322	\$257	\$122	\$296	\$450	\$1,447
Residential Unit of Development Charge without State Government cap on Community Infrastructure Contributions	\$322	\$257	\$122	\$296	\$450	\$1,447
Per 19 sqm retail floor space and/or 121 sqm commercial floor space	\$322	\$257	\$122	n/a	n/a	\$701

NEW SOUTH WALES

Enabling Legislation	Section 94 of the <i>Environmental Planning and Assessment Act</i>
Application	<p>Contributions can be sought for:</p> <ul style="list-style-type: none"> • Capital costs including land acquisition costs; • Public facility that a council has responsibility to provide; and • Public facilities that are needed as a consequence of, or to facilitate, new development. <p>Section 94 can only be applied to the capital funding of facilities. The only recurrent funding permitted is the ongoing maintenance of roads where heavy vehicular traffic movement arises directly from a specific development activity such as mining.</p> <p>Capital funding includes:</p> <ul style="list-style-type: none"> • The cost of land acquisition including all things necessary to bring the land into council ownership and to a standard suited for the end use; and • Construction and provision of facilities including all the things necessary to facilitate construction and to bring the facility to a standard that is suitable to the end use.
Mechanisms for raising contributions	Development contributions are supported by a development contribution plan.

Specific Example

Randwick City Council Section 94 Contributions Plan (July 2003)

The aims of Randwick City Council Section 94 Contributions Plan are to:

- Enable Council to implement a program of public works to provide those amenities and services for which new development and/or redevelopment has created demand.
- Complement development control policies contained in Randwick Local Environmental Plan 1998, Council's Development Control Plans and Housing Strategy.
- Provide the basis upon which the Council can effectively administer development contributions policies in a practical and equitable manner.
- Enable applicants to determine, at the earliest possible stage, the types and extent of contributions generated by development.
- Identify and quantify public facilities or public services for which development has created the need.

The implementation of works funded by contributions resulting from the plan is based upon the projected growth of the City of Randwick over a 5 year period from September 1999 (excluding Kensington Car Parking and Kensington Townscape improvement works which will be carried out over the next 5 years from August 2003). Contributions apply across the local government area.

Examples of the levies raised are shown below.

Residential Development	Open Space	Community facilities	Townscape Improvements
Studio	\$853.75	\$377.50	\$1,954.00
1 bedroom	\$1,195.25	\$528.50	\$2,735.00
2 bedroom	\$1,792.88	\$792.72	\$4,103.00
3 + bedroom	\$2,732.00	\$1,208.00	\$6,252.00
Commercial Development	Townscape Rate per sqm	Parking per space	
Maroubra		\$27	\$11,125
Randwick		\$52	\$11,833
Kingsford		\$49	\$6,615
Coogee		\$29	\$7,902
Maroubra Beach		\$80	\$2,856
Matraville		\$58	
Kensington Town Centre		\$43	\$11,963

NEW ZEALAND

Enabling Legislation

- Resource Management Act 1991(RMA)
- Local Government Act 2002 (LGA)

Definitions

Resource Management Act

"a territorial authority to impose conditions on resource consents requiring financial contributions in accordance with the relevant provisions of the district plan or proposed district plan"

These contributions are intended to promote the sustainable management of natural and physical resources in accordance with the purposes of the RMA. They are not intended to be used to address the fiscal impacts of growth.

Local Government Act

Prescribes the scope of and methodology for calculating development contributions. Development contributions can only be used for capital expenditure where the effect of a development is to

"require new or additional assets or assets of an increased capacity and, as a consequence, the territorial authority (local government) incurs capital expenditure to provide appropriately for:

- Reserves
- Network infrastructure
- Community infrastructure."

Network infrastructure is defined as *"the provision of roads and other transport, water, wastewater, and stormwater collection and management."*

Community infrastructure means land, or development assets on land, owned or controlled by the territorial authority to provide public amenities; and includes land that the territorial authority will acquire for that purpose.

Mechanisms for raising contributions

The local government intention to raise development contributions must be supported by: the identification of **community outcomes** which are reflected in the Long Term Community Plan (LTCCP).



The LTCCP represents that community's expectations of the services that will be provided by Council and the level of services that will be achieved. This forms the basis for establishing whether existing infrastructure has a shortfall in either capacity or level of service for existing residents that should be funded by existing ratepayers rather than through development contributions.

A Council must prepare a development contribution policy as part of its revenue and financing policies of its LTCCP.

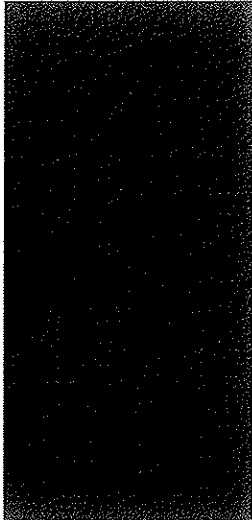
The Council's **development contributions policy** must:

Be supported by a needs assessment which enables the council to determine whether the current supply of community facilities is meeting the needs of existing residents; and assist the council to identify the capital expenditure that it expects to incur to meet the increased demand for community facilities resulting from growth.

It should:

Summarise the capital expenditure identified in the LTCCP that the council expects to incur to meet the increased demand for community facilities resulting from growth.

- (a) State the proportion of that capital expenditure that will be funded by development contributions.



- (b) Explain why the Council has determined to use those funding sources to meet the expected capital expenditure.
- (c) Separately identify each activity or group of activities for which a development contribution will be required.
- (d) For each activity or group of activities, specify the total amount of funding to be sought by development contributions.
- (e) Explain and justify the way each development contribution is calculated.
- (f) Describe the significant assumptions underlying the calculation of the schedule of development contributions. This must include an estimate of the potential effects if there is a significant level of uncertainty as to the scope and nature of the effects.
- (g) Where appropriate, describe the conditions and criteria that will apply in relation to the remission, postponement, or refund of development contributions.
- (h) Describe the basis on which the value of additional allotments or land is assessed for the purposes of Section 203 which sets the maximum development contributions which may be imposed in respect of reserves.
- (i) Contain a schedule which specifies the contributions payable in respect of each district (or part of a district) calculated in accordance with the methodology relating to the type of infrastructure. The schedule must also specify when the council may require the development contribution (for example, at the time a building consent or resource consent is granted).

Specific Example

Wellington Development Contribution Plan

The Local Government Act 2002 provides a detailed framework for the development of Development Contribution Plans. These are integrated into the City's Long Term Council Community Plan, and are directly related to the City's Financial Management and Asset Management Plans.

Section 106(2)(c) of the LGA 2002 requires the Council's Development Contributions Policy to explain why the Council has determined to use development contributions as a funding source, by reference to the matters referred to in section 101(3) of the LGA 2002 detailed below.

The following community outcomes, identified in the LTCCP, are relevant to the decision of how to fund growth related infrastructure:

- Wellington's long-term environmental health will be protected by well-planned and well-maintained infrastructure.
- Opportunities for active and passive recreation in Wellington will be diverse, safe, affordable, accessible and attractive.
- Wellington's communities will have ready access to multi-use indoor and outdoor facilities and spaces.
- Wellingtonians will protect and have access to public green open spaces and the coast.
- Wellington's governing bodies will comply with all legislative requirements and will behave in an ethical and fair manner.

Charging new development for the additional infrastructure ensures a fair contribution to the community outcomes. This means, for example, that:

- Traffic resulting from development is managed by a programme of works that maintains existing traffic flow, pedestrian and cycle access, parking and safety standards;
- Large, efficient reservoirs and pumping stations are built and shared across a number of developments; and
- Reserves are created and developed to service growth.

The process for determining how development contributions have been calculated is outlined below.

Step	Explanation	LGA Reference
One	<p>Define catchments A catchment is the area served by a particular infrastructure, eg. reservoirs, pumping stations and pipes.</p> <p>Catchments are defined with reference to characteristics of the service, the common benefits received across the geographical area supplied and judgment involving a balance between administrative efficiency and the extent of common benefits.</p>	LGA Schedule 13 1(a)
Two	<p>Identify 10-year capital expenditure resulting from growth The proportion of total planned costs of capital expenditure for network and community infrastructure and reserves from the LTCCP resulting from growth.</p> <p>Growth costs (capacity increase to cater for new entrants) can be funded in full or in part by using development contributions. This is one of three components of the total 10-year capital costs budgeted in the LTCCP, the other two components being level of service improvements and renewals. These two costs must be met from funding sources other than development contributions.</p> <p>Justification for the level of growth capital expenditure should be supported by financial management funding considerations (refer to 3 above) and show significant assumptions and impacts of uncertainty.</p>	<p>LGA 106(2)a and Schedule 13 1(a) LGA 106(2)(a)</p> <p>LGA 101(3)(a) LGA 201(1)(b)</p>
Three	<p>Identify the percentage of growth related 10-year capital expenditure to be funded by development contributions Unless the Council wishes to reduce fees for clear policy reasons, this is likely to be 100 percent in most cases, because:</p> <ul style="list-style-type: none"> it directly relates to the planned capital expenditure set out in the LTCCP and detailed in the Council's Asset Management Plans and the capital expenditure identified for growth can be reasonably identified. 	LGA 106(2)(b)
Four	<p>Identify the appropriate units of demand The selected unit of demand is Equivalent Household Units (EHUs) calculated as follows:</p> <ul style="list-style-type: none"> For a greenfield development, an allotment, eg in Northern Growth developments the average lot size is 550 - 600m². EHUs will be applied uniformly for each lot regardless of size for reasons of administrative simplicity and lot size is not considered to have a material impact on demand. For non-residential development, 65m² (based on average space per office worker of 25m² and an average number of persons per household in the Wellington region of 2.6 (per the 2001 census) or by self-assessment supported by an impact report or by special assessment whereby the Council prepares an impact report as a basis for assessment. For an infill development, a residential dwelling as defined in the District Plan. 	LGA Schedule 13(1)(b)
Five	<p>Identify the designed capacity (in units of demand) provided for growth The designed capacity may vary between different types of infrastructure. In many cases it will be considered economically prudent to provide spare growth capacity considerably beyond current 10-year expectations. For example, large scale, high cost citywide infrastructure such as a sewerage treatment plant will have significantly more designed capacity for growth than ongoing roading improvements.</p> <p>Costs are recovered across the full designed number of EHUs. Projected growth in EHUs over the 10 year period of the LTCCP will be relevant to the Council's budgeting of revenue but not to the calculation of the development contribution per EHU.</p>	LGA Schedule 13(1)(b) & (2)
Six	<p>Allocate the costs to each unit of demand for growth The development contribution charge per EHU is calculated by dividing the total capital expenditure resulting from growth (step two) by the designed units of demand for growth (step five).</p>	LGA Schedule 13(1)(b)

Step	Explanation	LGA Reference
Seven	<p>Input results to comprehensive schedule of fees by catchment</p> <p>A detailed schedule must be prepared as part of the policy that enables the development contributions to be calculated by infrastructure type and catchment.</p> <p>The policy will be supported by the significant assumptions made to determine the development contributions payable and their impacts, contribution and conditions and criteria for remission, postponement or refund, the valuation basis for assessment of maximum reserves and catchment maps.</p>	LGA 201(2) LGA 201 (1)(a) LGA 201(1)(b),(c) & (d)

The development contributions are shown below.

Catchment Specific					Reserves	Total excluding	
Map zone		Citywide \$ per EHU	Water Supply \$ per EHU	Waste Water \$ per EHU	Roading \$ per EHU	excluding greenfield development* \$ per EHU	reserves for greenfield development \$ per EHU
A	Roseneath	\$1,750	\$1,775	\$1,185	\$0	\$0	\$4,710
B	Western Messines	\$1,750	\$961	\$2,440	\$0	\$0	\$5,151
C	Grenada North HL	\$1,750	\$7,250	\$1,185	\$0	\$0	\$10,185
D	Frobisher	\$1,750	\$1,904	\$1,185	\$0	\$0	\$4,839
E	Kelburn	\$1,750	\$1,392	\$1,185	\$0	\$0	\$4,327
F	Central Johnsonville West	\$1,750	\$850	\$1,185	\$0	\$0	\$3,785
G	Ngaio West	\$1,750	\$3,907	\$1,185	\$0	\$0	\$6,842
H	Onslow	\$1,750	\$677	\$1,185	\$0	\$0	\$3,612
I	Churton-Stebbings	\$1,457	\$1,543	\$722	\$2,495	\$0	\$6,217
J	Northern Grenada-Lincolnshire	\$1,457	\$5,720	\$722	\$1,141	\$0	\$9,040
K	Inner City – Residential	\$1,750	\$0	\$1,185	\$0	\$2,099	\$5,033
	Inner City - Non-Residential	\$1,750	\$0	\$1,185	\$0	\$262	\$3,197
L	Northern	\$1,750	\$0	\$722	\$0	\$0	\$2,472
M	Western	\$1,750	\$0	\$2,440	\$0	\$0	\$4,190
N	Central	\$1,750	\$0	\$1,185	\$0	\$0	\$2,935
O	Rural						
(Citywide roading and reserves only payable - unless practical to connect to water or wastewater)		\$1,034	\$0	\$0	\$0	\$0	\$1,034
P	Rossavell	\$1,750	\$500	\$722	\$0	\$0	\$2,972
Q	Central Messines	\$1,750	\$961	\$1,185	\$0	\$0	\$3,896
R	Northern Johnsonville West	\$1,750	\$850	\$722	\$0	\$0	\$3,322
S	Central Grenada-Lincolnshire	\$1,457	\$5,720	\$1,185	\$1,141	\$0	\$9,503

