

1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	13/08/1996	496	13/08/1996
2	14/01/2003	25	14/01/2003
3	11/05/2010	0142	11/05/2010
4	14/10/2014	0338	14/10/2014
5	13/03/2018	18/084	13/04/2018
6	09/07/2024	24/182	08/08/2024

2 Policy Objective

- Water supply and wastewater developer contribution charges (S64 of the Local Government Act 1993 and S305 of the Water Management Act 2000) are up front charges levied to recover part of the infrastructure costs that the water or sewerage fund incurs in servicing new developments or additions/ changes to existing developments.
- The objective of this policy is to require the proponent of new developments that impose an additional demand on water and wastewater infrastructure to purchase the required additional capacity in the infrastructure.

3 Policy Statement

- 3.1 Council shall apply a developer contribution charge (S64 / S305) to all developments which create additional allotments or additional loadings to Council's reticulated water or sewerage schemes.

The water and wastewater developer charges shall be reviewed annually and will be published in the Council's Revenue Policy.

The basis for determining all developer charges shall be the use of Equivalent Tenements (ET's) where one Standard ET is the water demand or loading a development will have on infrastructure in terms of the average water consumption or average sewer discharge for an average residential dwelling or house, based on state-wide data.

A Local ET is considered to be the demand or loading a development will have on infrastructure in terms of the average water consumption or average sewer discharge for an average residential dwelling or house, within the Griffith City Council area. This shall be calculated annually and used in calculations (e.g. for 2008/09, 1x Water ET = 490 Kl/annum and a Residential Sewer Discharge Factor (SDF) = 0.5) in conjunction with the Standard ET figures. Local ET figures shall form the basis of the calculation of S64 /S305 charges.

Developer Contributions for Non Residential developments are determined by establishing the Equivalent Tenement (ET) rating by one of the following methods:

- Historical water consumption figures of similar developments; or
- Water Directorate “Section 64 Determination of Equivalent Tenements Guidelines”; or
- Information supplied by the developer for water consumption; or
- Other Council approved method of determination which may include a combination of the above

3.2 Historical Water Consumption Method

This is applicable to cafes, restaurants, shopping centres, shops, etc. where historical water consumption is locally available.

The ET loading will be determined by assessing the historical water consumption of similar developments and applying the Local ET figures.

3.3 Water Directorate Guidelines Data

This data is published by the NSW Water Directorate and has been based on state-wide data that has been statistically analysed. This is the preferred method of assessing ET's when historical consumption data is not available.

3.4 Information supplied by the developer

This method may be used when historical local consumption data or Water Directorate data is unavailable.

For the calculation of ET's based on this method, the developer will need to supply to Council a submission outlining the proposed flow rates (instantaneous and daily) together with relevant supporting documentation.

3.4.1 Existing Unconnected Allotments - Residential

In the case of an existing, unconnected residential allotment, a contribution equivalent to the relevant developer charge detailed in this policy shall apply.

In the absence of knowledge of the future use of an allotment, then a contribution of 1x ET will apply for each existing allotment.

3.4.2 Residential Subdivision and Additional House/ Units

Equivalent Tenements (ET's) to be charged for residential subdivisions and additional house/ units are as per Water Directorate 'S64 Determination of Equivalent Tenement Guidelines' – Table 1 Standard ET Figures.

3.4.3 Assessment and ET Credits

Where an existing development site is assessed, and the assessed ET's for the proposed new development are equal to or less than the existing development, no S64 / S305 developer charges will be levied or monies refunded on unused entitlements for the site.

Where the new development's assessed ET's exceed those of the existing development, a credit of the existing ET's will be made for the new development site.

In the absence of knowledge of the future use of an allotment (residential or non-residential), then a contribution of 1x ET will apply for each newly created allotment (for water and sewerage) until the nature of the demand can be fully assessed at the Development Approvals stage. A credit of 1x ET will then apply to the development site.

3.5 Timing of Payments

When are contributions normally payable?

Council's policy concerning the timing of payment of monetary contributions is as follows for various types of applications:

- a) For development applications involving the subdivision of land – payment is to be made prior to the subdivision certificate being issued;
- b) For development applications involving building works – payment is to be made before a construction certificate is issued; and
- c) For any other development – payment is to be made prior to the use of the development, or prior to the occupation.

The conditions of consent will clearly specify the time at which contributions are due to be paid. If not such time is specified, a contribution is normally payable:

- a) In the case of consent to development being subdivision – before the approved plans (Final Survey Plan) are released to the applicant or prior to the release of the approved engineering plans or prior to the issue of a subdivision certificate.
- b) In the case of consent to development not involving subdivision but where a subsequent construction certificate is required – prior to the construction certificate being released to the applicant.
- c) In the case of consent to any other development – before the development is commenced or prior to the issue of an occupation certificate or endorsement of the final plan or as may be relevant in the particular circumstances.
- d) Complying development – contribution fees are to be lodged with Council within 7 days of certificate being issued.

3.6 Deferred/Periodic Payments

Can deferred or periodic payments be made?

Council may accept the deferred or periodic payment of a monetary contribution upon written request by the applicant, or any other person entitled to act upon the relevant consent, via a written request that can satisfy Council that:

- a) Compliance with the provisions of this Contributions' Plan as to when contributions are payable, is unreasonable or unnecessary in the circumstances of the case, and
- b) Non-compliance with the payment provisions will not prejudice the timing or the manner of the provision of the public amenity or service for which the contribution was required.

For development that is the subdivision of land for residential purposes: This option is not applicable if construction of a dwelling is included in the development application.

Council will consider deferral of payment of monetary contributions up to the settlement of sale proceeds, or 5 years from issue of a subdivision certificate, whichever is sooner, provided that the owner enters into a Deed of Charge in a form acceptable to Council binding the land with the obligation to repay the contributions, any indexation thereof and any interest thereon.

The Deed of Charge is to contain provisions enabling Council to register a caveat on the title of each proposed lot of the subdivision recording Council's interest under the Deed. The amount of contributions is to be indexed in accordance with the Contributions' Plan. Council's costs of the preparation and entry into the Deed of Charge and the registration of the caveat are to be paid by the applicant.

3.7 For other types of development:

Any deferral will generally be limited to a period of no more than 12 months, however, Council may agree to a longer period in exceptional circumstances. Periodic payment can be negotiated with Council but would normally be of equal instalments over the payment period.

If Council accepts the deferred or periodic payment of a monetary contribution, the applicant will be required to provide a suitable bank guarantee and Deed of Agreement for the contribution or the outstanding balance. The Deed is to be prepared by one of Council's Schedule of Fees, a copy of which is available from Council.

Should contributions not be paid by the due date, Council will call up the bank guarantee. The amount of the bank guarantee is to be the amount payable at the end of the deferred payment period.

Council may require the applicant to provide to Council a bank guarantee (from a bank and in a format acceptable to Council) for the payment of the outstanding amount on condition that:

- a) The guarantee requires the bank to pay the guaranteed amount unconditionally to Council where it so demands in writing, not earlier than six months (or a term determined by Council) from the provision of the guarantee or completion of the development or state of the development to which that the contribution or part relates.
- b) The guarantee prohibits the bank from:
 - i. Having regard to any representations made by the applicant or other person entitled to act upon the consent; and
 - ii. Having regard to any appeal, dispute, controversy, issue or other matter relating to the consent or the carrying out of the development in accordance with the consent, before paying the guaranteed amount.
- c) The bank's obligations under the guarantee are discharged:
 - i. When payment is made to the Council according to the terms of the bank guarantee;
 - ii. If the related consent lapses; or
 - iii. If the Council otherwise notifies the bank in writing that the bank guarantee is no longer required.
 - iv. The applicant pays interest to Council on the contribution or the outstanding balance of the contribution at the overdraft rate on and from the date when the contribution would have been otherwise payable in accordance with this Plan.

4 Definitions

$$\text{Standard ET} = \frac{\text{Estimated Average Development Water Consumption}}{\text{Standard ET Water Consumption}}$$

$$\text{Local ET} = \frac{\text{Estimated Average Development Water Consumption}}{\text{Local ET Water Consumption}}$$

Sewer Discharge Factor (SDF) is the proportion of water consumption (volume) for a particular development that is discharged to the sewerage system.

5 Exceptions

None

6 Legislation

S64, Local Government Act, 1993
Water Management Act 2000 and Water Management (General) Regulation 2018

7 Policy Co-owner

Utilities Directorate

8 Related Documents

NSW Water Directorate, Determinations of Equivalent Tenements Guidelines
Development Servicing Plan for Sewerage 2012
Development Servicing Plan for Water Supply 2012
Developer Charges Guidelines for Water Supply, Sewerage and Drainage – DUES 2002

9 Directorate

Sustainable Development