PREPARED BY MESH WITH FINANCIAL ASSISTANCE FROM VPA THE STREAMLINING FOR GROWTH FUND

2020

Regional DCP Toolkit.

Development Contributions Information Manual

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Development Contributions Information Manual

Development Contribution Plans (DCP) are currently the main mechanism that is used by regional councils to fund infrastructure required to meet the needs of their growing communities.

purpose

The purpose of this manual is to provide a resource for council staff to draw upon following training in development contributions. This Manual is to be read in conjunction with the State Government DCP Guidelines, updated in 2007.

Development contributions are the 'payments or works in kind and land, provided by developers towards the supply of infrastructure that will be required to meet the needs of new or expanding communities'.

Development contributions help fund the higher order, basic and essential works and services required by new communities including roads, intersections, shared paths, parks, local sporting and community facilities. The various infrastructure requirements are identified and justified through a strategic plan/document such as the Precinct Structure Plan process. This infrastructure (land and construction) is in addition to general 'developer provided' infrastructure which includes local estate infrastructure i.e. local roads, local drainage, services and improvements to local parks.

Development contributions are a very important and significant source of funding, at the time of writing this manual the Victorian Regional Councils combined DCPs include approximately $2 billion worth of development contribution projects to be delivered and managed. In recognition of the importance of actively managing and implementing development contributions this manual has been prepared to provide general guidance to Council staff.

THIS MANUAL PROVIDES AN OVERVIEW OF THE THREE KEY DEVELOPMENT CONTRIBUTION FUNDING MECHANISMS CURRENTLY AVAILABLE INCLUDING:

1. DEVELOPMENT CONTRIBUTION PLANS (DCP)
2. INFORMAL SHARED FUNDING ARRANGEMENTS
3. SECTION 173 AGREEMENTS / PLANNING PERMITS

It outlines the advantages and disadvantages of each mechanism and when to use them before focusing on the preparation, implementation, maintenance and administration requirements.

Before DCPs are explained it is important to note that the infrastructure contribution plan (ICP) system formally commenced on 27 October 2016 and the Public Land Act was introduced in 2018. The ICP system applies to specific development settings. Development settings refer to a type of land where an ICP may be applied.

Three development settings are proposed:

1. **Metropolitan green-field growth areas**
2. **Regional green-field growth areas**
3. **Strategic development areas**

The regional greenfield growth area development setting has not yet been defined and therefore this report does not have regard to the ICP system.

document structure

This document has been structured having regard for the seven key aspects of DCP, Informal Shared Funding Arrangements and Section 173 Agreement preparation, implementation and administration that is illustrated in Figure 1.

Figure 1: Structure of this Report

DC funding mechanisms 1
Understanding the different development contribution funding mechanisms available and the advantages and disadvantages of each approach.

application 2
Determine when it is appropriate to use a DCP, Informal Shared Funding Arrangements and/or Section 173 Agreement.

preparation 3
Prepare DCP, Informal Shared Funding Arrangements, Section 173 Agreements and supporting strategic justification. This includes preparing detailed infrastructure costs for each project and completing an initial risk assessment.

implementation 4
Calculation and collection of contributions through the planning permit process, determining works in kind arrangements, preparing infrastructure priority lists and cash flows.

maintenance 5
Indexation and escalation of the DCP levies, Informal Shared Funding Arrangements and Section 173 Agreement charges to maintain the accuracy of costs.

recording and reporting 6
Keeping transparent records of DCP, Informal Shared Funding Arrangements and Section 173 Agreement account balances and payments for works in kind. Reporting regularly to senior management through the governance framework.

review 7
Regular review of DCPs, Informal Shared Funding Arrangements and Section 173 Agreements to ensure project lists, scopes and costs remain relevant.

When deciding which funding mechanism to apply it is important to understand DCPs, Informal Shared Funding Arrangements and Section 173 Agreements and their primary functions, when it is best to apply them, and the advantages and disadvantages associated with their use and implementation. It is also vital to understand the development context of the growth area that is being planned.

The development context is defined and influenced by a number of key factors including:

» Scale and location of growth;
» Parcel composition and ownership pattern;
» Development type and rates;
» Affordability (market conditions);
» Existing infrastructure and new/upgraded infrastructure required; and
» Delivery of infrastructure.

document structure.

Regional growth areas vary considerably in terms of scale from small, isolated discreet growth areas to large corridor scale growth areas. Notwithstanding, the variability there are typical characteristics of regional growth areas which are described in Table 1.

Table 1: Typical characteristics of regional growth areas

Regional Growth Areas

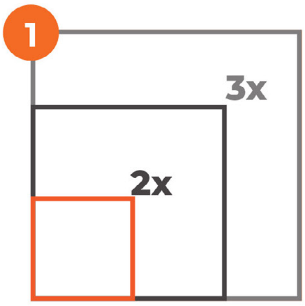
scale and rate of growth	Variable scale of growth areas (often dispersed). Generally low to moderate rates of development.
parcel typology	Often fragmented ownership, variable parcel sizes, legacy subdivisions.
land ownership	Few larger scale developers present in growth areas who have the experience and financial capacity to directly deliver infrastructure. As a result, Council is often required to directly deliver key infrastructure projects.
existing infrastructure	Limited or less formalised existing infrastructure. However, there is often existing capacity within the infrastructure that is present, and the level of growth proposed does not always require new infrastructure but rather an upgrade of existing facilities.
infrastructure funded	Regional DCPs fund a range of drainage, transport and community and recreation projects. The amount and cost of infrastructure projects included in regional DCPs is typically lower compared with metropolitan growth areas this has been due to the smaller size of growth areas to date and the fact that several councils have had deliberate regard to affordability and have chosen not to include specific projects in the DCP.
existing funding schemes	Typically, limited exposure and understanding of shared infrastructure funding schemes among the local development community although this is changing.
service authorities	Variable co-ordination levels between service authorities – Council drainage authority.
market conditions	Project returns and profitability margins are often lower compared with metropolitan growth areas. Generally lower underlying land values. Reduced ability to absorb increasing charges.
standard of infrastructure provision	The application of metropolitan standards of infrastructure provision becomes cost prohibitive and reduces the ability to offset the charges via price growth.
trunk services	Regional developers often do not have the scale and the financial capacity to overcome high upfront infrastructure costs.
role of Council	In regional areas councils often play multiple roles as they are responsible authority/planning authority as well as the drainage authority. In addition, in the smaller growth areas regional Councils often take on a proactive development coordination role and, in many instances, will directly deliver infrastructure to open up development fronts and stimulate development. This active coordination role often involves a council directly delivering specific DCP projects via forward funding through their capital works program with funds being returned via DCP charges.

document structure.

In summary, the successful implementation of any funding mechanism requires a detailed knowledge of the local development context and having particular regard to the following matters:

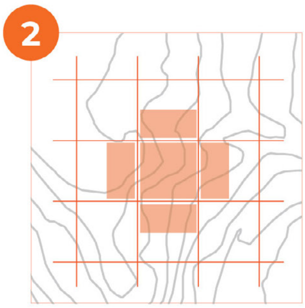
Figure 2: Understanding the development context

Understanding the **Development Context**



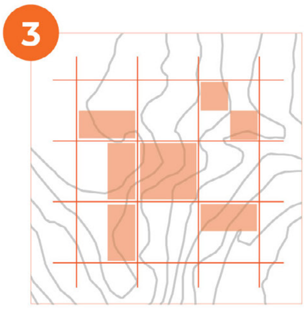
scale

- What scale of growth is being planned?
- Small, moderate, large?
- What is the impact of the scale of development on the existing surrounding development? i.e. is it a moderate expansion on the edge of town or a doubling of the entire township population?



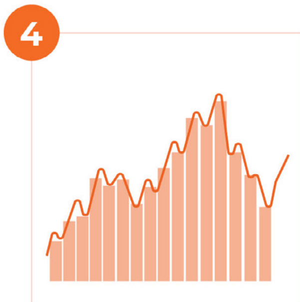
location

- Is the project growth to be contained within a consolidated growth area or a series of disparate, disconnected growth areas?



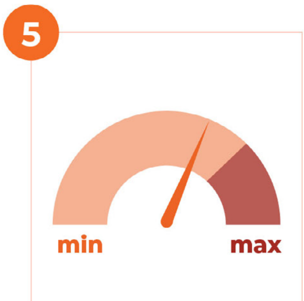
composition & ownership pattern

- Does the growth area comprise of large, consolidated landholdings or small, fragmented landholdings?



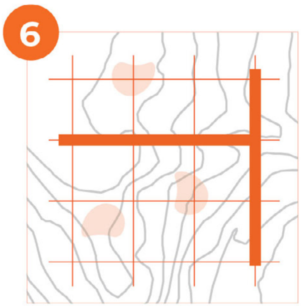
development rates

- What rate of growth is forecast?



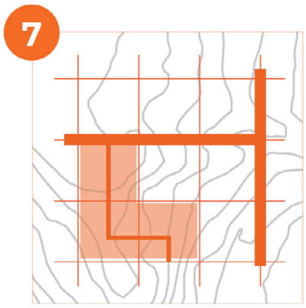
affordability

- What level of infrastructure charges can be supported financially without detrimentally affecting development viability?



existing infrastructure

- What is the status and capacity of the existing infrastructure? Are there any major servicing constraints?



delivery of works-in-kind

- Are there any active developers present that may be able to deliver projects as works-in-kind?
- Do they have the scale/financial capability to deliver projects directly?
- Or will Council have to adopt a proactive infrastructure delivery role?

development contributions plans (DCP)

A DCP is a planning implementation tool to enable equitable funding and delivery of higher order infrastructure. Development contributions are the 'payments or works in kind and land, provided by developers towards the supply of infrastructure that will be required to meet the needs of new or expanding communities'.

Development contributions help fund the higher order, basic and essential works and services required by new communities including roads, intersections, shared paths, parks, local sporting and community facilities. The various infrastructure requirements are identified and justified through strategic planning such as the Precinct Structure Plan process. This infrastructure (land and construction) is in addition to general 'developer provided' infrastructure which includes local estate infrastructure i.e. local roads, local drainage, services and improvements to local parks.

A DCP is an incorporated document that is implemented via a Development Contributions Plan Overlay (DCPO). This approach requires a Planning Scheme Amendment and the preparation of a fully costed and strategically justified DCP document. The Minister for Planning must approve an amendment to the planning scheme in order to incorporate a DCP.

The DCP system is based on four key principles as illustrated in Figure 3.

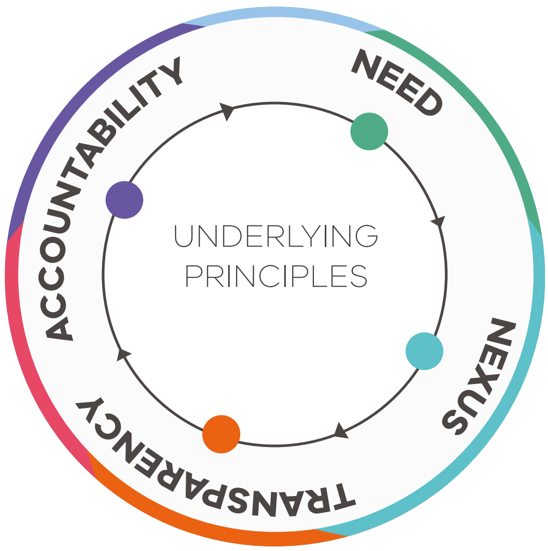


Figure 3: Underlying principles of the DCP system

NEED

A DCP can only levy new growth, both residential and non-residential. Therefore, development projections must be determined for the catchment to establish whether there is an adequate level of growth (need) projected to support introduction of a DCP. A DCP is charged on a demand unit – it is an individual unit that provides the basis on which infrastructure levies are calculated and charged. A demand unit can be a hectare, dwelling, lot or 1 square metre of floorspace.

NEXUS

Technical reports and/or an overarching strategy must clearly demonstrate that there is a direct nexus between the projected growth and the nominated infrastructure projects i.e. new projected growth generates the need, or a portion of it, for the new infrastructure.

TRANSPARENCY

Strategic justification such as technical background reports and an overarching strategy is required to establish the rationale for preparing and implementing a DCP.

The DCP, or supporting documents, must clearly set out in a transparent manner the rationale for the identification, scope (including plans and specifications), cost and apportionment of the infrastructure projects.

ACCOUNTABILITY

The Collecting Agency nominated in the DCP is responsible for the collection of DIL and CIL charges.

The Development Agency nominated in the DCP is committed to provide the respective DCP infrastructure projects and bear all financial risk. They must also keep proper records of all income and expenditure and provide an annual report to the Minister for Planning.

When to use a DCP

A DCP can be used as an implementation tool, however it must be based on sound strategic justification.

A DCP is an incorporated document that is implemented via a Development Contributions Plan Overlay (DCPO). This approach requires a full Planning Scheme Amendment and the preparation of a fully costed and strategically justified DCP document. The Minister for Planning must approve an amendment to the planning scheme in order to incorporate a DCP.

It is recommended that Council prepare a DCP for all areas that:

Will experience high levels of urban growth such as greenfield sites and large redevelopment sites, which are not defined as an ICP Development Setting.

Contain a large number of properties;

Contain fragmented ownership patterns;

Require a broad range of infrastructure to support the new community; and

Are covered by a detailed strategic planning document such as a structure plan which sets out a sound strategic basis and design rationale for the area.

Role of a DCP

A DCP is a planning implementation tool to enable equitable funding and delivery of higher order infrastructure.

As outlined above a DCP cannot be applied in an area that is defined as an ICP development setting.

Key principles of a DCP include:

- The document must be based on a sound, robust strategic basis e.g. Structure Plan, policies;
- DCP projects must be justified;
- DCP must demonstrate a need and nexus for infrastructure e.g. technical reports;
- Infrastructure costs must be apportioned on the basis of projected 'share of usage';
- A DCP must have a reasonable time horizon and review period;
- A commitment to provide the infrastructure – which is a binding obligation on Council;
- A DCP requires accountability and transparency from Council; and
- A DCP must be incorporated into the planning scheme.

Development Levies

A DCP can include two types of levies:

1. Development Infrastructure Levy

The DIL is the primary DCP levy and is used to fund the majority of infrastructure projects within a DCP such as roads, public transport, drainage, land acquisitions, shared path networks, construction of active open space reserves and buildings and works for or associated with the construction of maternal and child health centres, kindergartens and child care centres etc. It can also include finance costs. The DIL is uncapped.

To be collected pursuant to a condition placed on a planning permit (usually at the time of subdivision).

2. Community Infrastructure Levy

The CIL is a modest levy and funds are used for buildings or facilities that have a community or social purpose (generally sporting pavilions or community centres that do not include kindergartens or maternal and child health). The CIL is capped at $1,210 per dwelling (in 2020/21 financial year), the CIL is indexed annually by the State Government and published on their website.

To be collected at the time of construction of a dwelling (issue of a Building Permit).

Advantages of Preparing a DCP

Key advantages of using a DCP include:

- A DCP is a **well-known and accepted** funding mechanism.
- A DCP can include a range of transport, community, active recreation and drainage infrastructure required by a new or expanding community.
- The DCP rate and projects to be funded cannot generally be challenged once the DCP is incorporated into the planning scheme.
- It is able to be **charged based on an appropriate charging unit** i.e. per net developable hectare, or per dwelling, m2 of floorspace etc to suit the development context and development types.
- The DCP is based on sharing all funding costs **equitably** among the land owners.
- Based on the notion that the DCP DIL charges can be satisfied via **works in kind** as well and/or as cash payments.
- The DCP will provide a transparent and fair approach.
- Generally works well in areas which have a more consistent rate of development with consolidated land parcels.
- A DCP can facilitate the co-ordination of delivery of key infrastructure through the provision of an implementation strategy.
- The costs to prepare a DCP and structure plan can be recovered through the DCP.

Disadvantages of Preparing a DCP

Key disadvantages of using a DCP include:

- A DCP can create a **financial risk to the development agency (Council)** as they are obligated to deliver all projects included in the DCP (legislative requirement).
- A DCP can result in substantial **funding shortfalls** particularly where a lot of land projects are included as the land required for a future public purpose is only provided when the property is developed. If the development agency requires the land earlier and the owner is not willing to transfer this to the development agency at the value specified in the DCP the owner can trigger the Land Acquisition and Compensation Act (LACA) or alternatively development agency can place a Public Acquisition Overly on the land and trigger the LACA. Whilst the DCP applies a land methodology to determine a site-specific valuation, the value determined will ultimately be lower than that calculated under LACA.
- If a slow rate of development is expected, collecting agency (Council) is at risk of being "out of pocket" for an unknown period of time (due to timing of collecting development contributions, indexation costs and escalating land values which may outweigh development progression).
- A DCP will be more expensive and take longer to prepare and administer compared to an Informal Funding Arrangement or Section 173 Agreement (DCPs have significant reporting and tracking obligations).
- A DCP requires a high level of strategic justification to implement including: traffic modelling and functional designs, detailed drainage design, costings and land valuations. The need and nexus must be clearly established and an allowance for external demand/ apportionment included where required.
- The CIL charge is currently capped at $1,210 per dwelling.

informal shared funding arrangements

An informal shared funding arrangement involves Council identifying a list of basic infrastructure projects internal to a growth area/s, the projects are costed and shared among the land holders.

Ideally an informal shared funding arrangement would 'tag' certain projects to be directly delivered by key landholdings.

The informal shared funding arrangement would form part of the Implementation Strategy section of the respective strategic document (i.e. Development Plan, Outline Development Plan etc), and it would be implemented via permit conditions and the use of Section 173 Agreements.

This option is contingent upon Council being able to withhold rezoning of the subject land or other approvals in order to secure agreement with the landholders upfront, which may take some time.

EXAMPLES OF INFORMAL SHARED FUNDING ARRANGEMENTS INCLUDE:

MORWELL NORTH WEST DEVELOPMENT PLAN, LATROBE CITY COUNCIL

STRATHFIELDSAYE EAST TOWNSHIP DEVELOPMENT PLAN, CITY OF GREATER BENDIGO

TRARALGON NORTH DEVELOPMENT PLAN, LATROBE CITY COUNCIL

When to use an Informal Shared Funding Arrangement

Informal shared funding arrangements have typically been used in the following circumstances:

1. Where a growth area is controlled by a small number of land holders;
2. Where the supporting strategic document, i.e. PSP, Development Plan (or equivalent), has been prepared but is not supported by the necessary level of strategic justification required to prepare a formal DCP;
3. Where the supporting strategic document has identified key essential infrastructure that is required to support the growth area;
4. The growth area will require rezoning for urban development to progress; and
5. There is a general awareness among the landowners of the benefit of adopting a coordinated approach to the delivery of key infrastructure.

Infrastructure Levies and Projects

Given an informal shared funding arrangement is not an incorporated document, there are no requirements per se regarding what infrastructure items and levy amounts can be included and funded.

Therefore, Council has discretion and flexibility regarding the charge rate and projects to be provided, however the projects and charge rates can be challenged through VCAT if the development proponent does not agree to the permit conditions implementing the informal shared funding arrangement.

This attests to the approach discussed above regarding entering into agreements with landowners prior to rezoning, rather than deferring it to a permit.

Advantages of Preparing an Informal Shared Funding Arrangement

Key advantages of using an informal shared funding arrangement are:

- **Limits the financial liability** for Council as Council are not obliged to deliver any of the infrastructure items at all (no legislative requirement).
- Will be **easier and quicker to prepare** compared to a formal DCP.
- Requires a **lower level of strategic justification** and infrastructure costing rigor.
- As the land is not zoned, Council can control implementation of the Section 173 Agreement and discussions and secure the agreements with the landholders prior to rezoning the land.
- It can be prepared to **maintain an equitable approach** and sharing the funding responsibilities among the various landowners.
- Only needs to include specific infrastructure works which unlock the development opportunities and benefit the Structure Plan/Development Plan area i.e. **Council has more flexibility** to pick key infrastructure items which will facilitate development and negotiate with developers.
- The level of design and costing detail and rigor will not be as high as for a DCP, and there is no Panel review process available.

Disadvantages of preparing an Informal Shared Funding Arrangement

Key disadvantages of using Informal Shared Funding Arrangements include:

- The ability to implement/deliver the infrastructure **will be undermined if the majority of landowners do not support** the funding arrangement proposed, which will delay the rezoning and development of the growth areas.
- The charge rate and projects included **can be challenged (through VCAT)** if a development proponent does not agree with the permit conditions implementing the funding agreement. However, risk to the challenge can be mitigated through educational sessions with landowners explaining the benefits of adopting a shared funding approach.
- The **list of infrastructure** items included in the shared informal funding arrangement would be more **basic** (internal to the growth area) compared with a formal DCP due to the general lack of strategic justification.
- An informal funding agreement will be **less effective for infill development** that is taking place on land that is already zoned for urban purposes as under a VCAT review the funding agreement will not be enforceable.
- Council may be criticised for a **lack of transparency** and/or strategic basis and/or nexus in a review situation.

A section 173 agreement is an agreement made in accordance with section 173 of the Planning and Environment Act. It is voluntary agreement that is placed on the land title and therefore runs with the property not the owner/developer.

When to use a Section 173 Agreement

A Section 173 Agreement for the provision of infrastructure is appropriate when the parties agree to a mutually acceptable outcome. An acceptable agreement is more likely to be achieved when the circumstances involve a large individual development or a small number of landowners.

It is appropriate to use a Section 173 Agreement for the provision of infrastructure in several instances, including:

» To implement a DCP. Council often use Section 173 Agreements to formalise the provision of works in kind or staged payments of development contributions in accordance with an approved DCP.

» To collect contributions for infrastructure, as either cash or works in kind, for projects not included in a formal DCP. In this instance a Section 173 Agreement may be used, in conjunction with planning permit condition/s, to implement an informal shared funding agreement.

This section focuses on the latter, using a Section 173 Agreement for the provision of contributions for infrastructure, put simply the Section 173 is the funding mechanism i.e. there is no DCP, ICP or informal shared funding arrangement applying to the subject land.

It is appropriate to use a Section 173 Agreement for the provision of infrastructure in the following circumstances:

» The area to be developed is a small or discrete area;

» The area may develop in an ad hoc manner over a long period of time;

» There are a small number of properties and land owners involved;

» There is a lack of strategic justification to support the preparation of a formal DCP; and

» To implement a DCP through the provision of works in kind, staging of payments or reimbursements.

A Section 173 Agreement in relation to infrastructure provision can be initiated when:

» Council considers a planning scheme amendment request;

» Council considers a planning permit application; and

» Implementing a DCP through the provision of works in kind or staged payments of contributions and timing of reimbursements.

What should be included

A Section 173 Agreement can include:

» The costs and standard of infrastructure provision;

» The timing of the provision of infrastructure;

» The parties' obligation to provide the infrastructure (directly delivered by the developer i.e. local works);

» Works-in-kind projects – shared infrastructure projects that are to be delivered by the developer in lieu of a cash contribution;

» Timing of payments towards infrastructure, which should be prior to issue of Statement of Compliance; and

» Reimbursement of the cost of providing infrastructure if it exceeds the total contribution liability of the property – this may be funded via Council or other landowners who will benefit from the infrastructure.

Each Section 173 Agreement should include a table of as a Schedule to the respective Agreement.

This table of contributions should clearly set out:

» The total liability of the property including the amount of net developable hectares and year of the costs;

» Clearly identify specific infrastructure (including a detailed scope of works) to be provided as works in kind, the timing and value of these works; and

» The value of any credits to be reimbursed to the developer and the timing of these reimbursements.

Each Section 173 Agreement should include clauses that specifically address:

- Annual indexation of construction and/or land contribution cost;
- Clause to address cost overruns and whether these are to be borne by the landowner or whether there is the possibility to review the scope and cost of the projects, which must be to Council's satisfaction.
- The requirement to update the Table of Contributions, which is a Schedule to the Section 173 Agreement, annually.
- This annual review should include:
  - Update of indexed costs;
  - Update of timing of delivery of works to be provided as works in kind;
  - Recognition of works in kind that have been constructed and credited; and
  - Timing of any cash payments or reimbursements.
- Cost of preparing the Section 173 Agreement to be covered by the development proponent. This will include covering the cost of associated external engineers costing the infrastructure projects or reviewing the costs council engineers have prepared.

Advantages of using a Section 173 Agreement

Key advantages of using a Section 173 Agreement include:

- Providing guidance and assurance for Council as it can be progressively implemented as rezoning occurs, if Council opts for a staged rezoning process.
- Limits the financial liability for Council as Council are not obliged to deliver any of the infrastructure items at all (no legislative requirement), unless Council agree to provide certain infrastructure or reimbursements in the Section 173 Agreement.
- They are generally easier and quicker to prepare compared to a formal DCP.
- Requires a lower level of strategic justification and infrastructure costing rigor.
- If the land is not zoned, Council can control implementation of the Section 173 Agreement and discussions with developers on requirements at the rezoning stage.
- It can be prepared to maintain an equitable approach and sharing the funding responsibilities among the various landowners.
- Council has more flexibility to pick key infrastructure items which will facilitate development and negotiate with developers.
- The level of design and costing detail and rigor will not be as high as for a DCP, and there is no Panel review process available.

Disadvantages of using a Section 173 Agreement

Key disadvantages of using a Section 173 Agreement are as follows:

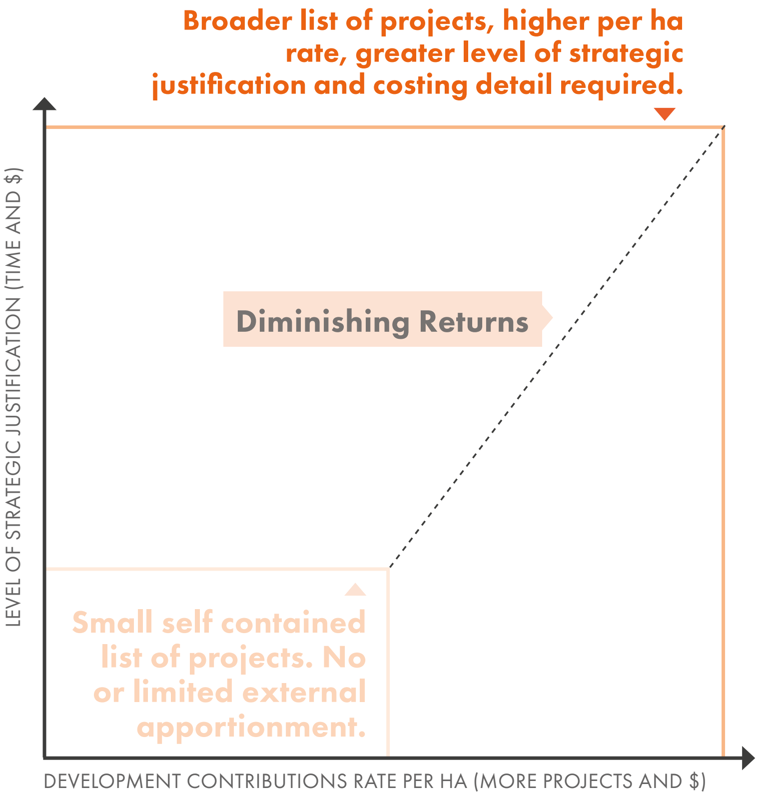
- The ability to implement/deliver the infrastructure will be undermined if the landowner does not support the proposed level of infrastructure provision to be included in a Section 173 Agreement, which will delay rezoning and development of growth areas.
- Lack of transparency as there is no requirement to publicly exhibit a Section 173 Agreement.
- The charge rate and projects included can be challenged (through VCAT) if a development proponent does not agree with the permit conditions implementing the funding agreement. However, risk to the challenge can be mitigated through educational sessions with landowners explaining the benefits of adopting a shared funding approach.

application

When deciding which development contribution mechanism to apply it is important to understand the development context and the pros and cons of each approach whilst having regard to the development context.

Figure 4 illustrates the relationship between the level of strategic justification required and the rate of infrastructure levy charged.

Figure 4: Relationship between level of strategic justification and levy charged



DCP

It is recommended that Council prepare a DCP for areas that: -

» will experience high levels of urban growth such as greenfield sites and large redevelopment sites;
» contain a large number of properties;
» contain fragmented ownership patterns;
» require a broad range of infrastructure to support the new community; and
» are covered by a detailed strategic planning document such as a structure plan which sets out a sound strategic basis and design rationale for the area.

Informal Shared Funding Arrangement

Informal shared funding arrangements have typically been used in the following circumstances: -

» Where a growth area is controlled by a small number of land holders;
» Where the supporting strategic document, i.e. PSP, Development Plan (or equivalent), has been prepared but is not supported by the necessary level of strategic justification required to prepare a formal DCP;
» Where the supporting strategic document has identified key essential infrastructure that is required to support the growth area;
» The growth area will require rezoning for urban development to progress; and
» There is a general awareness among the landowners of the benefit of adopting a coordinated approach to the delivery of key infrastructure.

Section 173 Agreements

It is appropriate to use a Section 173 Agreement for the provision of infrastructure in the following circumstances:

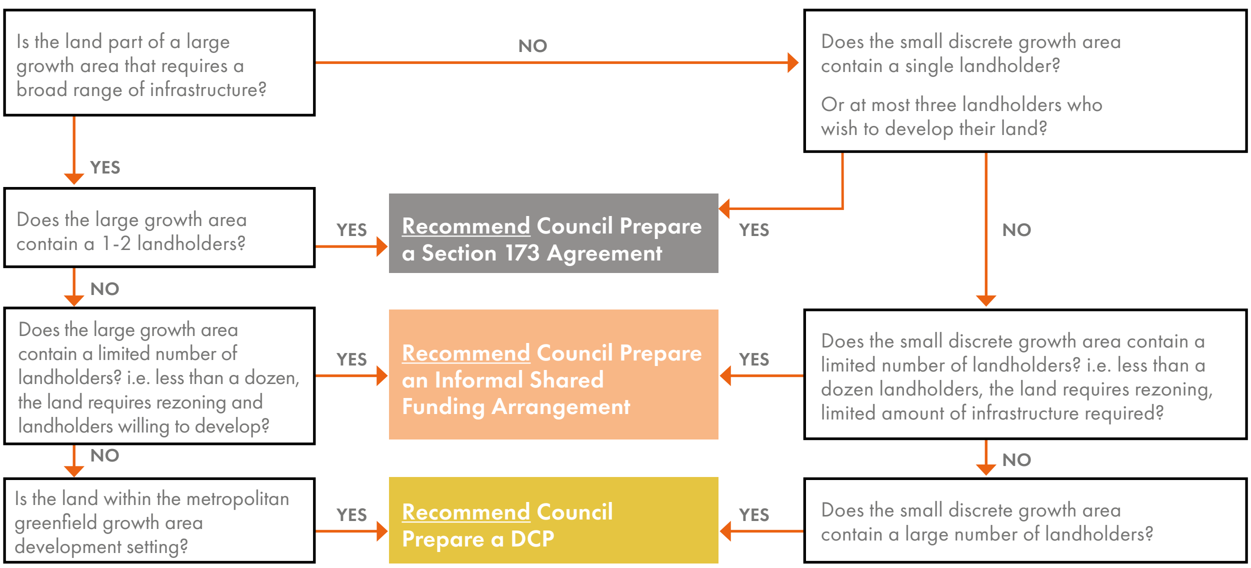
» The area to be developed is a small or discrete area;
» The area may develop in an ad hoc manner over a long period of time;
» There are a small number of properties and land owners involved;
» There is a lack of strategic justification to support the preparation of a formal DCP; and
» To implement a DCP through the provision of works in kind, staging of payments or reimbursements.

A Section 173 Agreement in relation to infrastructure provision can be initiated when:

» council considers a planning scheme amendment request;
» council considers a planning permit application; and
» implementing a DCP through the provision of works in kind or staged payments of contributions and timing of reimbursements.

Figure 5 illustrates the key questions Council needs to consider when determining which development contribution mechanism to apply.

Figure 5: Process to determine which funding mechanism to apply



This section describes how to prepare a DCP, Informal Shared Funding Arrangement or Section 173 Agreement.

DCP Strategic Justification

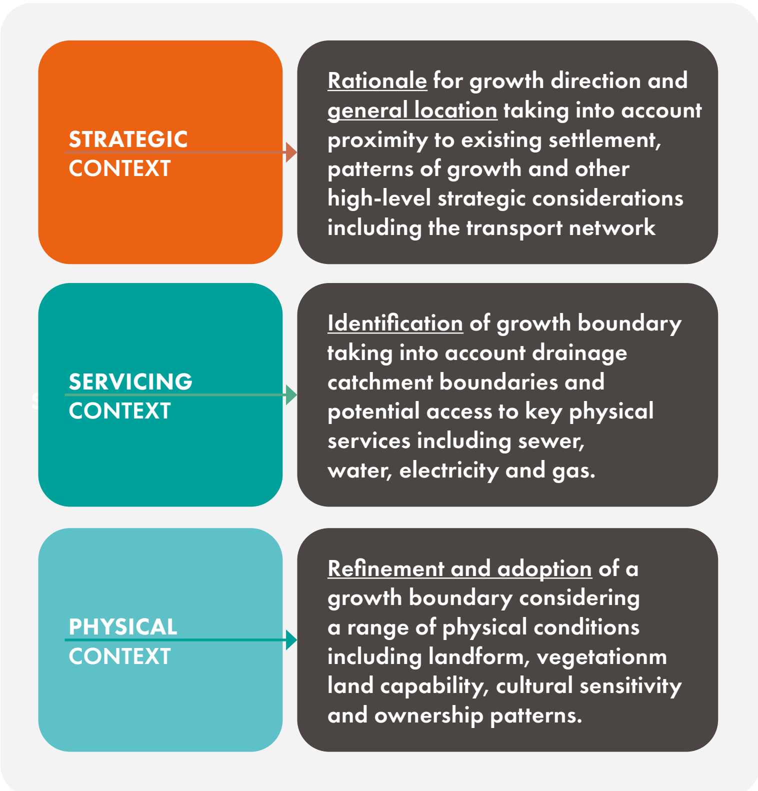
A DCP must be supported by a strategic planning document i.e. PSP. In most cases, the PSP will contain all the strategic justification necessary for preparing an DCP. The DCP may be supported by relevant background reports, such as reports relating to transport, community, active recreation or open space and drainage infrastructure.

The PSP will:

- set the vision for how land within the precinct is to be developed;
- explain the proposed urban structure for the precinct and how it fits into the overall growth area;
- define the boundaries of the precinct;
- establish the nexus between the urban development and the required infrastructure;
- identify the location, type and standard of infrastructure required;
- contain a detailed land budget that shows the amount of land from each lot within the PSP area that needs to be set aside for a public purpose;
- specify the net developable area; and
- specify the average public land percentage required, a DCP may also specify the public open space percentage required under Clause 53.01 of the Planning Scheme.

When the PSP and DCP are being prepared it is important that deliberate regard is had to the development context when determining the boundary of the growth area. Figure 6 illustrates key matters that should be considered when determining a growth area boundary.

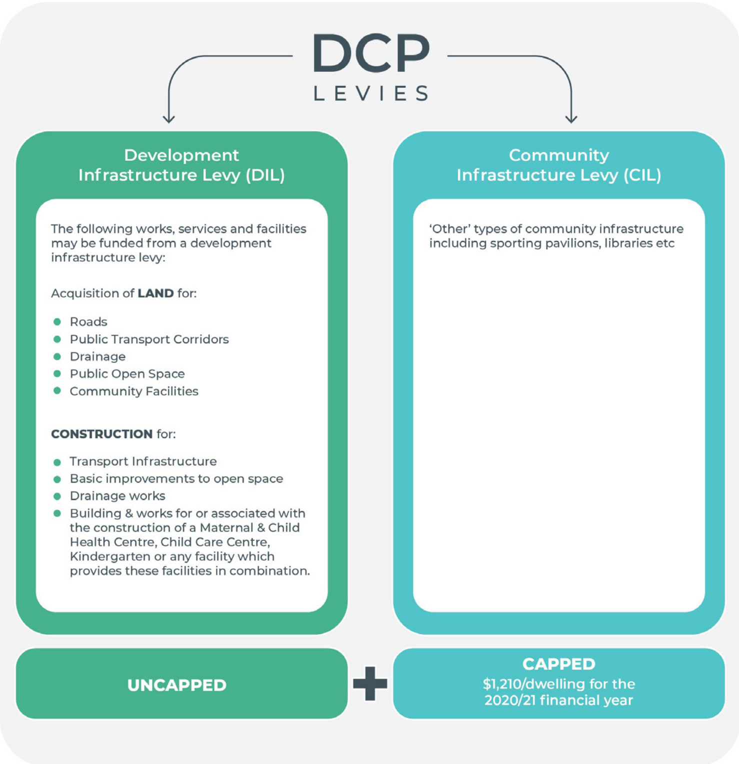
Figure 6: Key considerations when determining a growth area boundary



DCP Infrastructure Projects

Figure 7 illustrates the types of infrastructure projects that can be funded via the DIL and CIL levies.

Figure 7: Infrastructure that can be funded via DCP



The following costs may be funded through an DCP:

- **plan preparation costs**
  these are the reasonable costs and expenses incurred by a Planning Authority in preparing an DCP and strategic plan or PSP relating to, or required for, the preparation of an DCP.
- **capital costs**
  of providing the infrastructure projects;
- **contingency amounts**
  for constructing infrastructure projects;
- **design costs**
  associated with infrastructure projects; and
- **certain maintenance costs**
  associated with the infrastructure establishment period.

Recurrent costs, such as the costs of maintaining and operating facilities, or costs associated with the administration of the DCP, cannot be funded through an DCP.

Attachment 1 lists the types of projects able to be funded by a DCP via a Development Infrastructure Levy and a Community Infrastructure levy.

DCP Preparation

Preparation of a DCP requires a significant amount of time and resources. It is an iterative process that often involves exploring inclusion and exclusion of various items and Council making an informed decision regarding which items to include and being aware of the financial obligations this will place on Council as it is both the Collecting Agency and Development Agency.

There are several key steps that need to be completed when preparing a DCP, including:

1. ***Determine the area to be subject to a DCP.***
   Deliberate regard must be had to service catchment areas;

2. ***Ensure there is sufficient strategic justification to support a DCP.***
   - Review the strategic document that the DCP is to implement, including supporting background technical reports to ensure the sufficient level of justification is provided.
   - Commission any further work to fill any information gaps identified.

3. ***Identification of projects to be included in the DCP.***
   Identify projects suitable for inclusion in the DCP and determine likely timing triggers. Identify any external apportionment to be applied to specific projects and how this external apportionment will be funded (i.e. adjoining DCP, rates).

4. ***Prepare a detailed property land budget.***
   A detailed property specific land budget is required to determine the net developable area that will be charged a levy.

5. ***Complete an initial risk assessment.***
   This requires a critical review of the draft DCP to identify projects that may pose a significant financial risk to council and determining how these risks can be mitigated or minimised.

6. ***Determine costs of DCP Projects.***
   - Prepare detailed construction costs and commission land valuations for the various proposed DCP projects.
   - Consult with the various council departments when finalising the specific scope and timing of each infrastructure project.
   - Peer review of infrastructure costings to be undertaken. I.e. if costs prepared in house, then external consultant to review costs. If external consultants have prepared the construction costs then Council officers to undertake a peer review.

7. ***Calculation of Charges.***
   - Once the construction costs, land valuations and detailed property land budget have been finalised the contribution charges can be calculated.
   - Final charge rates to be reviewed in terms of affordability and its recommended Council review them relative to recent DCP rates within similar sized other regional councils.

8. ***Implementation Strategy.***
   Prepare an Implementation Strategy to be included in the DCP (or kept internally).
   - This is to include modelling of development growth based on known development interests within the DCP area, including identification of key development precincts and specific infrastructure items that would be suitable for delivery as works in kind.
   - It is important to identify any known financial implications for Council i.e. instances whereby Council will be required to fund infrastructure upfront and will be reimbursed over time as the area is developed. If this is the case Council are to consider the inclusion of the cost of finance/borrowing in the DCP.

9. ***Internal Review of Draft DCP.***
   It is important that the document is reviewed and any changes made prior to it being placed on public exhibition. When completing this review

10. ***Public Exhibition.***
    The final DCP is placed on public exhibition.

11. ***Approving a DCP.*** *An amendment to the planning scheme is required to incorporate a DCP into the Planning Scheme.*

Figure 8 describes the key challenges that usually arise prior to and during preparation of a DCP. Figure 9 describes the key components that are included in a DCP Calculation of Contributions Table. Figure 11 sets out the key risks to the successful preparation, implementation and administration of a DCP. Figure 12 describes the key matters that should be examined as part of the internal review of the draft DCP. Figure 13 is a case study illustrating a proactive approach taken by a council to secure large tracts of land required for a public purpose up front and de-risk the DCP. Figure 14 illustrates what section of the parcel specific land budget should be closely reviewed as well as demonstrating the implementation complexities caused by the location of infrastructure across multiple property boundaries.

When determining the estimate of value of the land projects in a DCP there are several different methods that are applied including:

» Applying a broad hectare valuation;
» Applying a site specific valuation; or
» Applying the public land equalisation method which is explained in Figure 10.

Figure 15 and Figure 16 provide an example of an implementation strategy included in the recently prepared Huntly DCP.

Figure 8: Key challenges prior to development of a DCP and Key challenges when preparing a DCP.

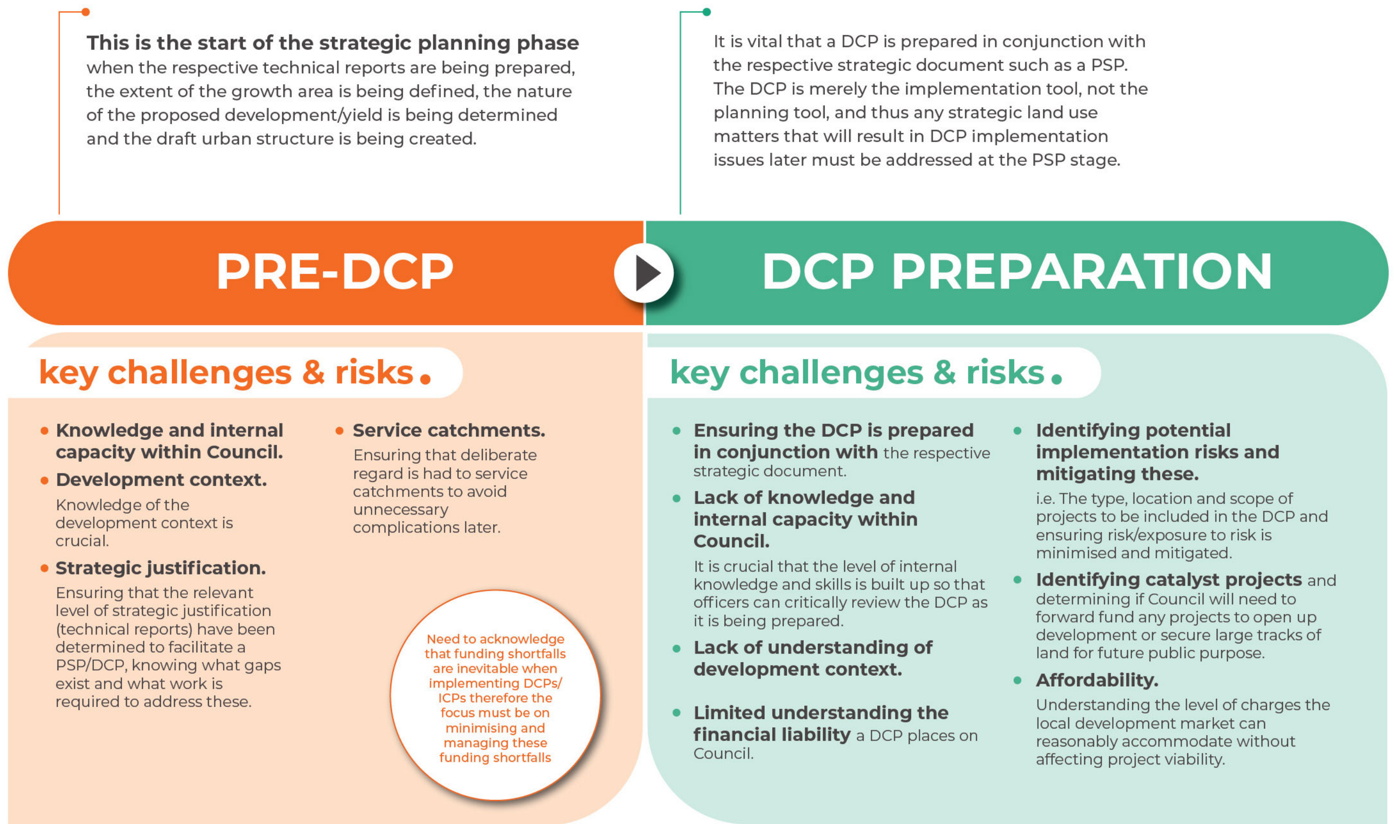


Figure 9: Key challenges when preparing a DCP

The infrastructure category shows whether the project is 'development' and therefore funded via the development infrastructure levy (DIL) or 'community' and therefore funded via the community infrastructure levy (CIL)

The land area for each project is specified, this is calculated via the property specific land budget table

The estimated land project is determined for each project with a land component

The estimated construction cost is determined for each project with a land component

This is the total project cost (land and construction) i.e. it is the total cost that is required to deliver the project

The proportion of the project that is attributed to the DCP area is determined

This is the total project cost that is recouped via the DCP

This is the individual charge rate for each infrastructure project for each residential net developable hectare. This is calculated by dividing the total cost recovered by the DCP by the residential NDA i.e. $70,457/145.74 NDHa = $483 per NDHa

DCP PROJECT ID	PROJECT	INFRASTRUCTURE CATEGORY	LAND AREA (HA)	ESTIMATED PROJECT COST: LAND	ESTIMATED PROJECT COST: CONSTRUCTION	TOTAL ESTIMATED PROJECT COST: LAND & CONSTRUCTION	% APPORTIONED TO DCP	TOTAL COST RECOVERED BY DCP	RESIDENTIAL – CONTRIBUTION PER NDHA
TRANSPORT PROJECTS									
ROAD PROJECTS									
RD-01	**Ryeland Drive: Connector Street Level 2** Land and construction costs for the upgrade of a Connector Street Level 1 (24 metre) to a Connector Street Level 2 (30 metre) (ultimate standard).	Development	0.10	$27,500	$42,957	$70,457	100%	$70,457	$483
RD-02	**Pine Road: Connector Street Level 2** Land and construction costs for the upgrade of a Connector Street Level 1 (24 metre) to a Connector Street Level 2 (30 metre) (ultimate standard).	Development	0.09	$24,750	$42,957	$67,707	100%	$67,707	$465
RD-03	**Ford Road and Grahamvale Road: Connector Street Level 2** Land and construction costs for the upgrade of a Connector Street Level 1 (24 metre) to a Connector Street Level 2 (30 metre) (ultimate standard).	Development	0.09	$24,750	$42,957	$67,707	100%	$67,707	$465
SUB-TOTAL ROAD PROJECTS			0.28	$77,000	$128,871	$205,871		$205,871	$1,413
INTERSECTION PROJECTS									
IN-01	**Ryeland Drive and Verney Road** Purchase of land for intersection and construction of 4-way signalised intersection (ultimate standard).	Development	0.24	$66,000	$1,130,964	$1,196,964	100%	$1,196,964	$8,213
IN-02	**Pine Road and Verney Road** Purchase of land for intersection and construction of 4-way signalised intersection (ultimate standard).	Development	0.28	$77,000	$1,144,553	$1,221,553	100%	$1,221,553	$8,382
IN-03	**Ford Road and Grahamvale Road** Construction of the connection to the roundabout, the crossing structure over the GMW irrigation channel and the left turning lane.	Development	0.00	$–	$1,365,953	$1,365,953	100%	$1,365,953	$9,373
SUB-TOTAL INTERSECTION PROJECTS			0.52	$143,000	$3,641,470	$3,784,470		$3,784,470	$25,968

Every DCP project has a unique project identification code as well as a project description. The project description should include the scope of the project i.e. type of road, width of road reservation as well as the length of the road being constructed

The sub-totals of each category are provided

Estimate of Land Value Methodologies

With regard to estimate of land value Council must make a deliberate decision regarding which approach will be applied in the DCP and whether the one approach will apply to all land projects.

There is no clear direction provided in the DCP Guidelines (updated in 2007) and Planning Authorities have adopted a number of different and more sophisticated approaches over the years which are described below.

When deciding which estimate of value methodology to apply the planning authority must have regard to three key questions:

1. **Should all DCP land projects be valued using the same methodology?**

   For example, should land required for drainage infrastructure to be valued using the same approach as land required for a community centre etc. By way of example, in the Melbourne Water Development Services Schemes (DSS) which operate separately to a DCP all flood prone land is attributed a zero value, however all land required for wetlands/ retarding basins that service the broader catchment are based on a broad hectare assessment.

2. **Which estimate of value methodology is most applicable to the DCP in light of the development context, mitigation of risk, and ease of implementation?**

3. **Which approach will best respond to the underlying objectives of the system – ie need, nexus...and is best suited to the specific development context?**

Typical estimate of value methodologies applied across DCPs have included:

» Precinct based broad hectare values. This approach has typically been adopted in older DCPs and it works well where all land owners agreed to the value i.e. Epping North East DCP, Strathfieldsaye Township East DP;

» Property specific broad hectare values. This approach has been adopted across several DCPs, the use of property specific broad hectare valuations results in a value that has regard to each properties characteristics and the amount of land required under the DCP however the broad hectare assessment results in a lower overall value per hectare compared with option © being a site-specific valuation. This approach was applied in the recently gazetted Shepparton North East DCP ;

» Property site-specific valuations. This approach ultimately results in the highest land value for all DCP land projects. Prior to the creation of PLEM this approach was used widely in metropolitan Melbourne DCPs; and

» Public Land Equalisation Method (PLEM). This approach uses a combination of broad hectare and site-specific valuations and has been used in DCP prepared by the VPA such as Leneva Baranduda DCP. The PLEM approach is slightly more complicated and a detailed description of how it operates and how it is calculated is provided in Figure 10.

PUBLIC LAND ESTIMATE OF VALUE METHODOLOGY (PLEM)

PLEM was created by the Victorian Planning Authority and is based on the principle that public land identified in a PSP is of shared benefit and landowners should contribute equally to its cost.

However, because public land is not evenly spread across all properties, some landowners need to contribute more public land than others. PLEM ensures landowners who contribute more than the average amount of public land receive fair payment for their overprovision.

PLEM uses the average amount of public land required across the DCP area as the benchmark for estimating the value of public land on individual lots. Where landowners contribute an amount of public land equal to or below the 'average', the value of the land is estimated on a broad hectare basis. Where landowners contribute more than the average, the amount in excess of the average is valued on a site-specific basis.

The key steps in PLEM are shown below:

Figure 10: Illustration of how the Public Land Equalisation Method applies (Source:VPA)

Determine DCP public land projects

- The strategic document, such as a PSP, will provide the necessary justification to identify the location, amount and purpose of the land required.
- The land must be aligned with a DCP project.
- Determine the total amount of public land required (in hectares) for all DCP projects.

Calculate the DCP average percentage

- Calculate the average percentage of all public land for DCP projects by development type i.e. divide the total DCP land projects by the total residential NDA (for all projects that benefit reisdnetial development) and so the same for non-residential development.

Calculate total DCP land required from each property

- Calculate the amount of land required for public purposes (DCP projects) for each property - this will be shown in the propety specific DCP land budget.

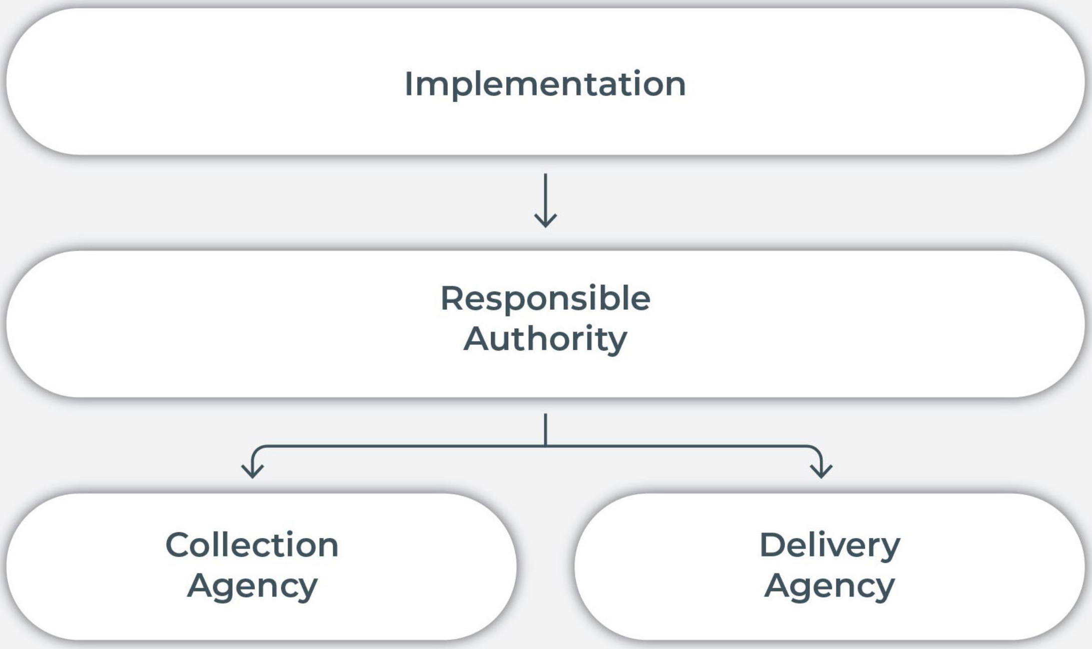
Determine DCP land percentage required per property

- Apply the average land percentage to each individual property to determine which properties are required to provide up to or less than the average percentage and which properties are required to provide in excess of the average percentage.

Estimate of value of land projects

- Apply the PLEM valuation methodology to determine an estimate of value for each DCP public land project. The estimate of value report must be prepared by a registered valuer.
- A site specific valuation is applied to all land to be provided in excess of the DCP average land percentage.
- A broad hectare valuation is applied to all land to be provided equal to or less than the DCP average land percentage.
- The two valuations are combined to determine the total estimate of value for all public land required from each property.

Figure 11: Key Risks associated with DCPs



RISK CAUSED BY

- Lack of understanding of DCPs, how they operate, binding obligations & reporting requirements
- Not understanding the development context
- Lack of rigour in technical reports & costing detail
- Multiple development fronts
- Need to critically assess works in kind proposals
- Need to regularly determine competing infrastructure priorities
- Under funded projects
- Process by which land secured for public purposes
- Requirement to manage cashflow
- Changing expectations/standards
- Improper/ Inaccurate management of payments/ credits
- Lack of correct/ timely indexation of charges
- Lack of regard to affordability in determining infrastructure priorities

Figure 12: Initial Review of a DCP

initial review of the DCP

should identify potential risk i.e.

- **Large expensive projects**
  can the project be delivered as WIK, likely delivery trigger, timing
- **Large areas of land**
  location, amount and purpose of land required. Impact on affected landholding i.e. is 100% of the property required? 80% etc. Identify properties that may trigger LACA.
- **Linked projects, staging & implications out of sequence development may pose.**
- **External apportionment**
  identify and quantify the amount of external apportionment proposed. Critically review the justification and calculations. Aim is to limit the number of projects with external apportionment attributed to them.
- **Alternative funding streams**
  how can the external apportionment amount be funded? Future DCP/ICPs, or rates revenue?
- **Implementation complexity**
  projects requiring coordination of multiple properties i.e. a road straddling two properties, a retarding basin sitting across four properties.
- **Identify projects that can be potentially delivered as works in kind**
- **Identify projects that will most likely be directly delivered by Council.**
- **Identify source of income by land use and charging basis**
  i.e. NDA, dwelling, per m2 of floorspace etc. Do you have all the necessary information to be able to calculate this - especially relevant if the DCP has been prepared by a consultant or state agency - council need to have all working files?

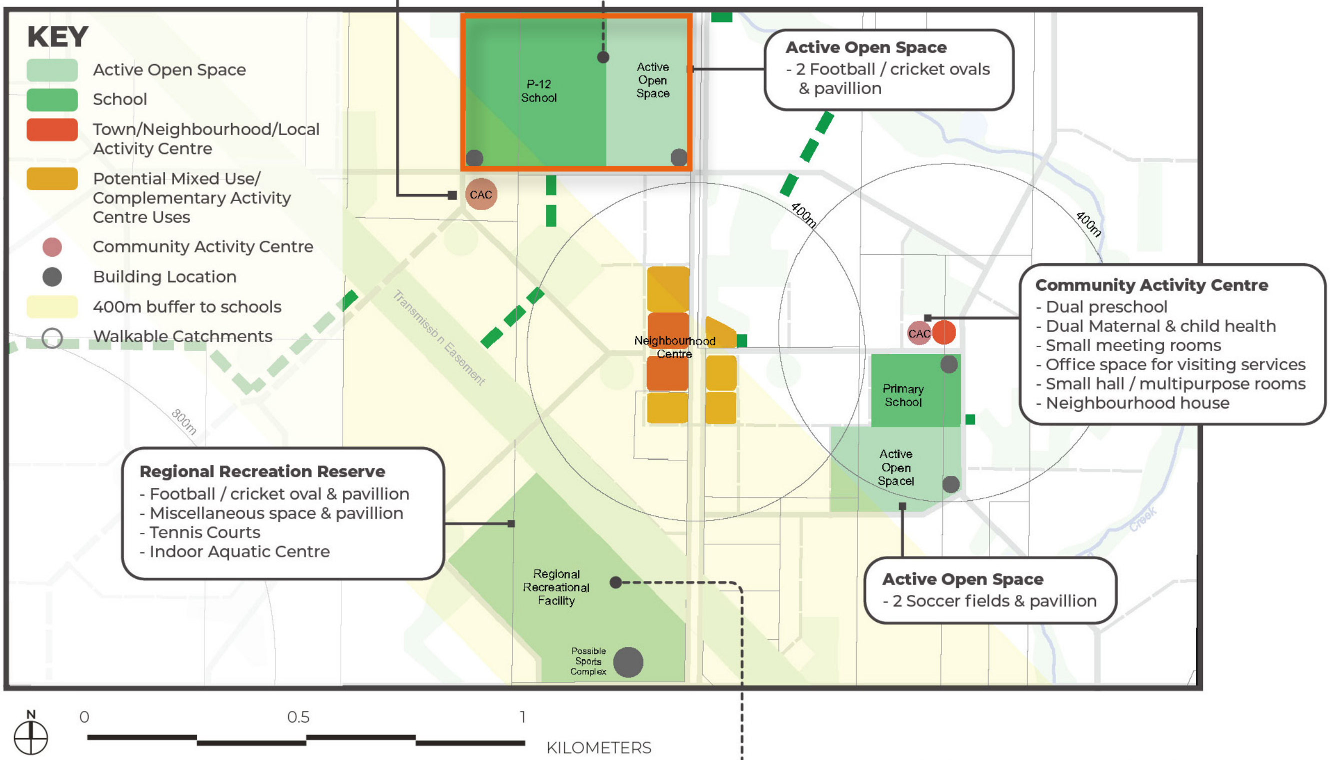
Figure 13: Proactive approach to securing land required for public purposes

Example of Minimising Risk – securing land upfront and including the cost of borrowing in the DCP.

This property has no development potential, entire property is required for a public school and local active open space.

Whittlesea Council adopted a proactive approach and negotiated an agreed value for active open space land.

The land value was agreed, fixed and included in DCP along with borrowing (finance) costs.



PSP required a large amount of land for regional open space (funding shared across 4 PSP/DCPs.

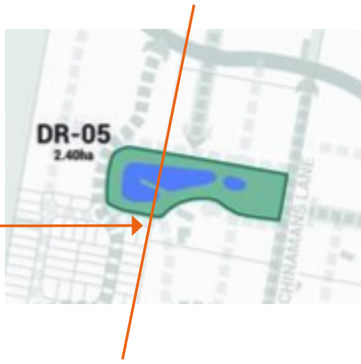
Council negotiated an agreed land value with the developer via 173 Agreement. The agreed, fixed value was included in the DCP. The land was transferred to council at date of gazettal of DCP (this resulted in land tax savings for the developer).

Figure 14: Example of potential risks

Property No.	Address	Total Site Area	Land to be acquired for Arterial Road Widening / Realignment	Existing Road Reserves	Foreshore Open Space	Existing Waterways and Drainage	New wetlands (land funded via DCP)	Conservation / native vegetation retention	Existing native vegetation reserve	Electricity Easement	Local Sporting Reserves (land funded via DCP)	Local Parks (land funded via DCP)	Schools - Government	Community Centres (land funded via DCP)	Net Developable Area	Total public purpose land required for DCP projects	Total land required for public purposes under the DCP as % of NDA
		(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(ha)	(Ha)	
1	Address details to be provided	68.948				0.109	3.292	0.298		11.380		2.538			51.331	5.830	11%
2		28.050				2.351		0.755		3.024		0.582			21.338	0.582	3%
3		51.487				2.343	8.108	2.253				3.670			35.113	11.778	34%
4		0.766			0.135										0.632	0.000	0%
5		37.665				1.174	6.100					2.009	3.500	0.400	24.482	8.509	35%

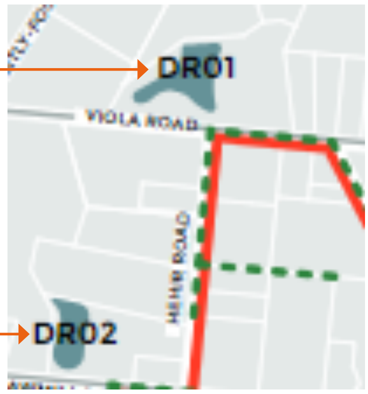
REVIEW THE PARCEL SPECIFIC LAND BUDGET, IDENTIFY PROJECTS THAT ARE REQUIRED TO PROVIDE MORE THAN 25% OF NDA AS PUBLIC PURPOSE LAND

Implementation challenges



Retarding basin located across two properties.

IMPLEMENTATION ISSUE
COORDINATION ACROSS MULTIPLE LAND HOLDINGS, AVOIDING STAGED CONSTRUCTION IF POSSIBLE.



Two large retarding basins/wetlands located outside a DCP area.

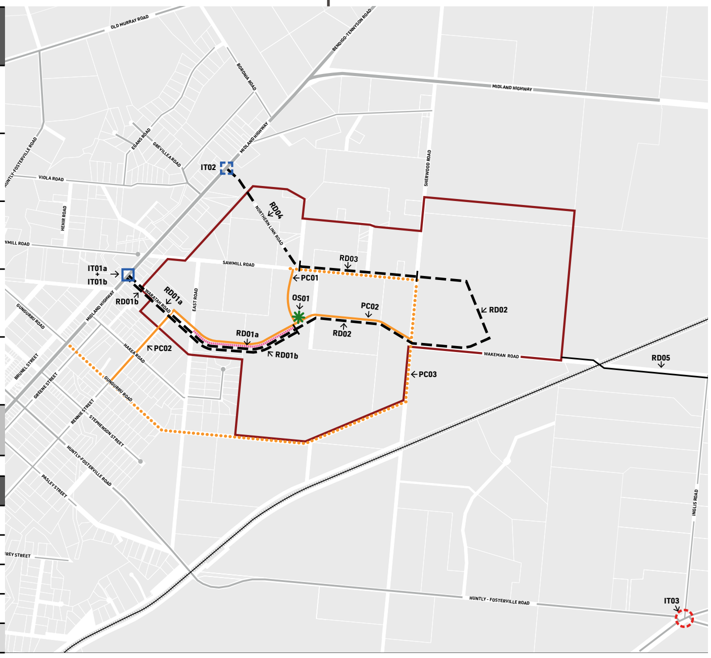
IMPLEMENTATION ISSUE
COUNCIL WILL BE REQUIRED TO SECURE LAND AND BUILD THE INFRASTRUCTURE. IMPLICATIONS IF THE LANDOWNER IS NOT WILLING TO NEGOTIATE.

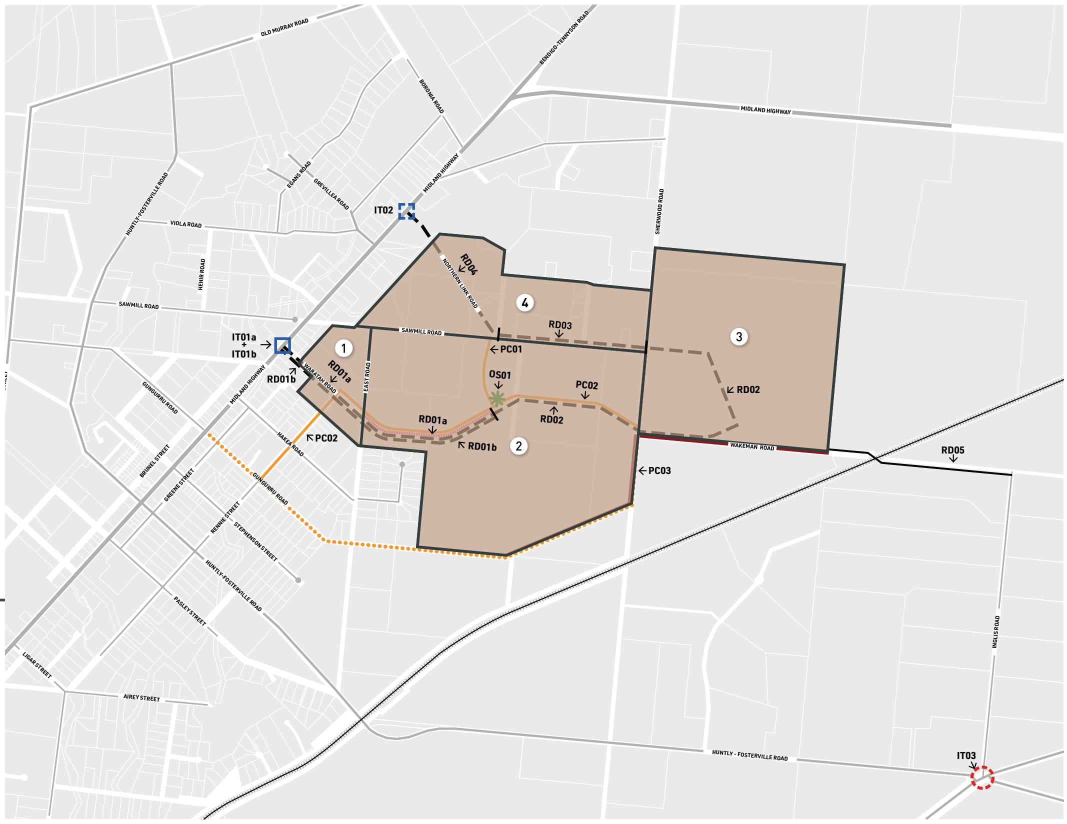
Figure 15: Example of an implementation strategy – identification of implementation precincts

HUNTLY DCP (POST PANEL)
MAP OF DCP AREA AND
DCP PROJECTS

Project Type	Total Cost to Charge Area	Per Ha Rate
ROADS	$11,328,337	$58,224
INTERSECTIONS	$5,550,745	$28,529
DISTRICT PLAY GROUND	$468,938	$2,410
OFF-ROAD PEDESTRIAN & CYCLE TRAILS	$970,534	$4,988
PLANNING COSTS & OTHER ITEMS	$239,300	$1,230
Total	**$18,557,854**	**$95,380.87**

Summary of Contributions by Funding Source	Funding Source
Total Cost attributed to DCP	$18,557,854
Total Cost attributed to UGZ land	$3,993,821
Total Cost attributed to 24ha of land west of Midland Highway	$466,967
Total Cost attributed to existing demand	$689,994
TOTAL Project Cost	**$23,708,637**





HUNTLY DCP
IDENTIFICATION OF
4 IMPLEMENTATION
PRECINCTS BASED ON
OWNERSHIP PATTERN
AND ROAD NETWORK.

Figure 16: Example of an implementation strategy – calculating DIL liability and identifying potential delivery strategy

THIS TABLE DETERMINES THE **DIL** LIABILITY FOR EACH PARCEL AND FOR EACH IMPLEMENTATION PRECINCT

DCP Implementation Precinct Number	Property Number	Total Area (Hectares)	Encumbered Land: 1:100 Floodway, retarding basins	Encumbered Land: Native Vegetation to be protected	**Gross Developable Area (GDA)**	Collector Road Reservation	Unencumbered Passive Open Space (hectares)	**Residential Net Developable Area (Hectares)**	**East Charge Area — Total DCP Liability per property and precinct $95,380.87**
1	24	1.91	0.00	0.00	1.91	0.00	0.00	1.9130	$182,463.60
	25	1.37	0.00	0.00	1.37	0.00	0.00	1.3726	$130,919.78
	26	3.68	0.00	0.00	3.68	0.00	0.00	3.6833	$351,316.34
	27	4.04	0.00	0.00	4.04	0.00	0.00	4.0393	$385,271.93
	Sub-Total	**11.01**	**0.00**	**0.00**	**11.01**	**0.00**	**0.00**	**11.0082**	**$1,049,971.65**
2	19	14.18	0.00	2.95	11.23	0.58	0.00	10.6507	$1,015,872.99
	20	57.05	2.00	16.11	38.94	1.51	1.60	35.8248	$3,417,000.45
	21	8.11	0.00	0.00	8.11	0.81	0.00	7.2995	$696,232.63
	22	10.81	0.00	10.47	0.34	0.34	0.00	0.0000	$0.00
	23	0.08	0.00	0.00	0.00	0.00	0.00	0.0000	$0.00
	28	4.59	0.00	0.00	4.59	0.00	0.00	4.5930	$438,084.32
	29	8.07	0.00	0.00	8.07	0.00	0.00	8.0720	$769,914.35
	30	7.93	0.00	0.00	7.93	1.09	0.00	6.8456	$652,939.26
	Sub-Total	**110.82**	**2.00**	**29.53**	**79.21**	**4.33**	**1.60**	**73.2856**	**$6,990,043.99**
3	17	8.67	1.35	0.00	7.32	0.00	0.00	7.3192	$698,111.63
	18	74.00	3.14	0.00	70.86	3.20	2.23	65.4316	$6,240,922.67
	Sub-Total	**82.68**	**4.49**	**0.00**	**78.18**	**3.20**	**2.23**	**72.7508**	**$6,939,034.30**

DETERMINING A POTENTIAL IMPLEMENTATION STRATEGY

THIS TABLE TAGS EACH DCP PROJECT TO A SPECIFIC IMPLEMENTATION PRECINCT/S OR COUNCIL (EXTERNAL APPORTIONMENT)

Project Number	Project Description	2018 Estimated Land Cost	2018 Construction Cost	2018 Total Project Cost	Implementation Precinct to Deliver Project as Works in Kind	Implementation Precinct to make a Cash Contribution and Council to coordinate construction of project
ROADS						
RD01a	Construction of a single carriageway of Waratah Road between Midland Highway and Whirrakee Parade - INTERIM. The project has three costs sections, these being Midland Highway - East Road 475m, East Road - Aspect St 225m and East Road and Whirrakee Parade 440m. Land for a road widening is also include (6,426m) for a 9m widening of the existing road reserve.	$600,000	$1,756,329	$2,356,329	Precinct 2	
RD01b	Duplication of Waratah Road between Midland Highway and Whirrakee Parade - ULTIMATE. The section of Waratah Road between Midland Highway and Whirrakee Parade 1,140 m in length.	$0	$2,200,582	$2,200,582	Precinct 2	
RD02	Construction of Waratah Road from Whirrakee Parade through the Hermitage Estate to the junction of Sawmill Road and Sherwood Road reserves. Collector road reserve of 25m required, development proponents must provide the entire road reserve at no cost to Council. Total length of road is 1,920 lm.	$0	$4,127,228	$4,127,228	Precincts 2 & 3	
RD03	Construction of Sawmill Road between the Northern Link Road and Sherwood Road. Collector road reserve of 25m to be set aside at no cost to Council. Total road length is 780 lm.	$0	$1,676,686	$1,676,686	Precinct 4	
RD04	Construction of Northern Link Road, between Midland Highway and the existing Sawmill Road (western edge of RD03). Collector road reserve of 25 m to be set aside at no cost to Council for land located within the DCP area. 0.476ha is required from Crown land located outside the DCP area and no cost to secure this land has been included in the DCP. Total road length is 710 lm.	$0	$1,526,214	$1,526,214	Precinct 4	
RD05	Upgrade of Wakeman Road to provide an alternative access route to Huntly East- external to the development area. Upgrade of the rural road using existing road reservation, upgrade of road comprising 9 m wide sealed carriageway. Total length of Wakeman Road upgrade (Sherwood Road from the eastern boundary of the DCP to Inglis Road) is 911 lm. The construction cost includes upgrade to straighten Wakeman Road approaches to the Bendigo-Echuca Rail Crossing. It also includes provision of 1 creek culvert on Wakeman Road.	$0	$1,962,238	$1,962,238		External apportionment
Sub-Total		**$600,000**	**$13,249,277**	**$13,849,277**		

Informal Shared Funding Arrangement and Section 173 Agreement

As indicated in Sections 5 & 6, preparation of an Informal Shared Funding Arrangement and Section 173 Agreements is not as complex a process as a DCP, however a Section 173 Agreement is a legal document and Council needs to ensure that the obligations in the Agreement meet the requirements and obligations of Council.

It is anticipated that an Informal Shared Funding Arrangement and Section 173 Agreement would include the following:

- the costs and standard of infrastructure provision;
- the timing of the provision of infrastructure;
- the parties' obligation to provide the infrastructure;
- timing of payments towards infrastructure which should be prior to issue of Statement of Compliance;
- the refund of cash contributions if infrastructure is not provided and the timing of these payments;
- reimbursement of the cost of providing infrastructure if it exceeds the total contribution liability of the property – this may be funded via Council or other landowners who will benefit from the infrastructure; and
- works-in-kind in lieu of a cash contribution.

In most instances, informal shared funding arrangements are prepared along the same lines as a DCP they are usually just simpler and therefore quicker to prepare.

AN EXAMPLE OF A SECTION 173 TEMPLATE IS PROVIDED IN APPENDIX 2, HOWEVER THIS IS AN EXAMPLE ONLY AND IT IS NOT SUITABLE TO BROAD APPLICATION AS IT NEEDS TO BE MODIFIED TO SUIT THE TYPE OF AGREEMENT AND ENSURE THE CORRECT TERMS ARE INCLUDED.

Flexibility

When preparing any of the above development contribution mechanisms it is important to ensure the respective mechanism contains sufficient flexibility to be able to adapt to changes in the future.

Examples of where flexibility is needed include:

- ***Project scope description.***
  For example take active recreation projects, it is recommended that broader project descriptions such as '8ha of active open space comprising a pavilion, car parking and sporting fields are provided'. Such a description provides council with flexibility as to what sport will be provided for i.e. AFL vs. football as the demand for these sports changes over time and Council does not want to be locked into providing only AFL ovals when the demand is strongest for football. However, it locks in the amount of land to be provided and provides certainty as to both the location and amount of land required.
- ***Delivery triggers.***
  For example, some older DCPs contain specific delivery triggers such as an amount of occupied households etc, which lock Council into providing these facilities at these times even if the triggers become out dated.

Figure 17on the page 32 provides a summary of the key challenges faced when implementing and administering a DCP.

Introduction

Implementation of an approved DCP, Informal Shared Funding Arrangement and Section 173 Agreement through the planning permit process is the most complex step in the Development Contribution process, however it is also the step where Council has the most discretion to influence development outcomes.

Figure 17: Summary of the key challenges to implement and administer a DCP

DCP Implementation & Administration

This is the most complex step in the process but it is also where Council has the most discretion to influence development outcomes.

DCPs are challenging to implement because :

1. they generally seek to fund a broad range of infrastructure over a long period of time
2. the actual project cost can often exceed what is nominated in the DCP
3. the scope of many projects changes
4. development rates can fluctuate.

key challenges & risks .

- **Limited knowledge and internal capacity within Council.**
  It is crucial that the level of internal knowledge and skills is built up so that officers can confidently implement the DCP.
- **Lack of understanding of the development context.**
  Change in growth rates
  Multiple growth fronts
  Development sequencing
  Absence of development proponents
- **Change in project scope and costs**
  Change in expectations from the community regarding standard of infrastructure required.
  Service authority requirements i.e. VicRoads design standards are typically higher than councils.
  Indexation hasn't kept pace with market costs.
  Cost to secure land, potentially LACA.
  Councils delivery strategy may have changed i.e. road cross sections and the inclusion of WSUD.
  Project was underfunded from the outset.
  Change in State Government requirements i.e. increase in access to 3yr old kindergarten.
- **Limited financial capacity of council to cover the funding gap or forward fund key infrastructure.**
- **Absence of a clear governance framework**
- **Lack of a clear council position on key matters**
  Out of sequence development - how this is to be treated?
  Interim/temporary works – are any works creditable as works in kind?
  Works in kind principles – what is the basis of council officer negotiations
  Securing land for public purposes – what is councils preferred strategy?
  Timing of works in kind credit payments (reimbursements) – how is this to be determined?
  Priority projects – how are these identified, what criteria must be met?
- **Financial management system.**
  Creating or purchasing an appropriate software package to manage the development contributions payments, expenditure, works in kind and transfer of land.
- **Indexation.**
  Ensuring each DCP is indexed on time and in accordance with the gazetted document.
- **Proactive financial management.**
  Updating each DCP infrastructure priority list annually. This will include preparing cash flow scenarios to inform the final approved IPL.
- **Completing the five-year review of the DCP.**

Table 2 outlines the key steps in the planning permit application process relevant to the implementation of a DCP, Informal Shared Funding Arrangement and Section 173 Agreement.

Table 2: Implementation via the Planning Permit Process

PLANNING PERMIT APPLICATION	PREPARATION OF SECTION 173 AGREEMENTS, IF REQUIRED	STATEMENT OF COMPLIANCE
- Pre application meeting - Calculate 'in theory' Development Contribution (DC) liability of planning permit area. - Identify infrastructure timing requirements/triggers. - Negotiate 'works in kind' with developer having regard to DC cashflow. - Approve DC Schedules, Public Infrastructure Plans (if applicable).	- Provide applicant with preferred Section 173 agreement format. - Negotiate finalised Section 173 Agreement (to require payment of DC levies (i.e. staged payment), delivery of works in kind or combination of both). - Approval of Section 173 agreement.	- Confirmation that 'works in kind' have been completed to Council's requirements where applicable. - Payment of DC liabilty where applicable. - Tracking of DC liabilities, payments and works in kind completed. - Notifcation of any asset transfers.

Note: DC (development contributions) in Table 2 refers to development contributions required via DCPs, Informal Shared Funding Arrangements and Section 173 Agreements.

EXAMPLES OF PLANNING PERMIT CONDITIONS ARE PROVIDED IN APPENDIX 2.

With respect to implementing a Section 173 Agreement, the items to be negotiated in the 'Planning Permit Application' phase will differ depending on the terms of each agreement. For example, in some agreements the exact scope of works, value of works and timing of provision of infrastructure may be specified in the Section 173 Agreement. However, in other instances the Section 173 Agreement may require certain aspects to be confirmed through the development/permit process – which is similar to implementing the other DC mechanisms.

Charging Levies

To calculate a DCP, Informal Shared Funding Arrangements and Section 173 Agreements quote (a quote is an invoice) the following steps need to occur:

» All planners/finance officers responsible for issuing Development Contribution quotations need to ascertain the following information from the development proponent:
  › Development proponent details – name and address;
  › Subject land (street address, title number (if applicable) and property ID that matches the respective DCP property specific land budget;
  › Total chargeable area (net developable area);
  › Land use type i.e. residential or employment;
  › Applicable DCP and charge area (if applicable);
  › Any land required for DCP purposes; the location, amount (hectares) and value of this land;
  › Provision of any works in lieu of cash payment; the location, proportion of project and value of works to be completed; and
  › Ensure the application for a DC quote is consistent with any relevant DC schedule/PIP, permit conditions or Section 173 Agreement.

» The finance team (note this may be the responsibility of the planning team) will create the quotation; and

» All quotes must be checked by the respective senior position as outlined in Councils Policy and Procedures document before being issued to the development proponent.

Figure 18 provides an example of a development contribution invoice and the level of detail it should contain.

Figure 18: Example of a Development Contribution invoice

DCP Name
Estate
Property number/s property [insert number that corresponds to DCP parcel specific property land budget]
Stage/s of development
Developer
Precinct Infrastructure Plan
Planning Permit No.
Date insert date invoice created

DCP Charges applicable at time SOC is being sought

DCP Precinct/ charge area (if applicable)	Development Type	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL DIL Charge per NDA
insert year (indexed year) and DCP name	Residential	$85,500	$66,780	$2,800	$7,000	$851	$30,904	$564	$194,399.00
insert year (indexed year) and DCP name	Commercial/ employment	$85,500			$0	$851	$30,904	$564	$117,819.00

DCP Liability for Estate [insert name], [insert address and property number that corresponds with DCP property specific land budget]

Stage	NDA (hectares)	Development Type	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL DCP liability	Statement of Compliance Date (SOC) Date	Plan of Subdivision Number	Planning File Reference Number	Notes
Stage 1	4	Residential	$342,000.00	$267,120.00	$11,200.00	$28,000.00	$3,404.00	$123,616.00	$2,256.00	$777,596.00				
TOTAL DCP Liability			**$342,000.00**	**$267,120.00**	**$11,200.00**	**$28,000.00**	**$3,404.00**	**$123,616.00**	**$2,256.00**	**$777,596.00**				

DCP Credits for Estate [insert name], [insert address and property number that corresponds with DCP property specific land budget]

Stage	DCP Project Number	Land or Construction	Area of land (ha) or lm of road or shared path to be constructed etc	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL agreed value of WIK/land provision to be credited	Statement of Compliance Date (SOC) Date	Plan of Subdivision Number	Planning File Reference Number	Notes
Stage 1	RD10	Land	0.7	$91,000.00							$91,000.00		including the road reserve that was vested in council as part of project RD10		i.e date practical completion issued
TOTAL DCP Credits				**$91,000.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$91,000.00**				

Summary (Balance) of DCP Liability and Credits

	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL
TOTAL DCP Liability	**$342,000.00**	**$267,120.00**	**$11,200.00**	**$28,000.00**	**$3,404.00**	**$123,616.00**	**$2,256.00**	**$777,596.00**
TOTAL DCP Credits	**$91,000.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$91,000.00**
DCP Balance	**$251,000.00**	**$267,120.00**	**$11,200.00**	**$28,000.00**	**$3,404.00**	**$123,616.00**	**$2,256.00**	**$686,596.00**

		DATE
Invoice prepared by	[insert council office name]	[insert date]
Invoice signed off by	[insert council officer name]	[insert date]

Regional DCP Toolkit

When an infrastructure levy must be paid

DCP

If an infrastructure levy is payable under an approved DCP in respect of development that requires a planning permit, the Act states that a condition must be included on the planning permit requiring the applicant to:

» Pay the levy to the relevant collecting agency by a certain date – which is usually prior to issue of Statement of Compliance; or
» Enter into an agreement with the relevant collecting agency to pay the levy within a certain time.
» If a planning permit is not required for the development, the planning authority must include an alternative procedure for collecting the infrastructure levy in the DCP. This is usually via Building and Works permits.

Satisfying a Development Infrastructure Levy

The requirement to pay an infrastructure levy can be satisfied by:

» Paying the DIL liability amount in cash;
» Providing WIK with the agreement of the collecting agency; or
» A combination of WIK and cash payment/ or reimbursement to the developer (if the value of the WIK exceeds their total DIL liability).

Informal Shared Funding Arrangements and Section 173 Agreements

Given these documents are not incorporated into the Planning Scheme there are no specific requirements for timing of payment, however most adopt similar payment requirements as are applied to a DCP.

Changes to the DCP Land Budget

It is a standard requirement that a DCP will include a property specific land budget which will identify for every property/parcel within the DCP the exact amount (or allocation) of land by land use type i.e. it will identify the:

- Total site area;
- Total encumbrances (non-developable land) such as flood prone land, land covered by a transmission easement, required for significant native vegetation, existing roads, schools etc;
- Total land required for new infrastructure to service the development i.e. land required for new higher order roads, intersections, retarding basins, wetlands (funded via DCP unless DSS applies), playing fields, community centres, local parks (usually funded via Clause 53.01) and government and non-government schools (usually funded by state government or privately) – all other land projects are funded via the DCP;
- Total net developable area (NDA). NDA includes any land for lots, housing and employment buildings, all local streets (including some connector streets), and any small parks defined at subdivision stage that are in addition to those outlined in the PSP; and
- Total residential developable area, total commercial or employment developable area.

The property specific land budget provides certainty and clarity regarding what land is considered encumbered and therefore not developable, land that is required for public purposes and therefore included in the DCP, and land that is developable. When the detailed land budget is prepared every effort is made to ensure that it is accurate based off the information inputs (technical reports) available at the time. It is assumed that the integrity of the land budget table will be maintained throughout the life of the DCP. However, it is inevitable that when development proponents get to the detailed planning stage there will be some minor changes, or in rare instances major changes, to the land uses which impact on the DCP/PSP land use budget.

The DCP anticipates that there will be some changes to layout and most DCPs include wording along these lines:

> "THE NDA FOR THE DCP IS OUTLINED IN TABLE 6. THE CONTRIBUTIONS 'PER NET DEVELOPABLE HECTARE' MUST NOT AND WILL NOT BE AMENDED TO RESPOND TO MINOR CHANGES TO THE LAND BUDGET THAT MAY RESULT FROM THE SUBDIVISION PROCESS. IN OTHER WORDS, THE DCP IS PERMANENTLY LINKED TO THE CALCULATION OF THE NDA SET OUT IN APPENDIX A.
>
> THE NDA MAY ONLY CHANGE IF THE COLLECTING AGENCY AGREES TO A VARIATION TO THE SUMMARY LAND USE BUDGET (TABLE 6) AND THE DETAILED PROPERTY-SPECIFIC LAND BUDGET (APPENDIX A) AND ASSOCIATED TABLES."

Source: Shepparton North East DCP, February 2019

Put simply, the DCP DIL charge will not be amended to respond to minor changes to the land budget, as this would require a full planning scheme amendment. However, the DCP does anticipate that there may be changes to the land use budget (which do not impact on the DIL Charge) only if the collecting agency agrees.

This is to ensure that there is some flexibility to respond to minor changes that occur without requiring a formal amendment to the DCP.

CHANGES TO THE DCP LAND BUDGET

When considering potential changes to the land use budget there are several principles or questions that should be considered including:

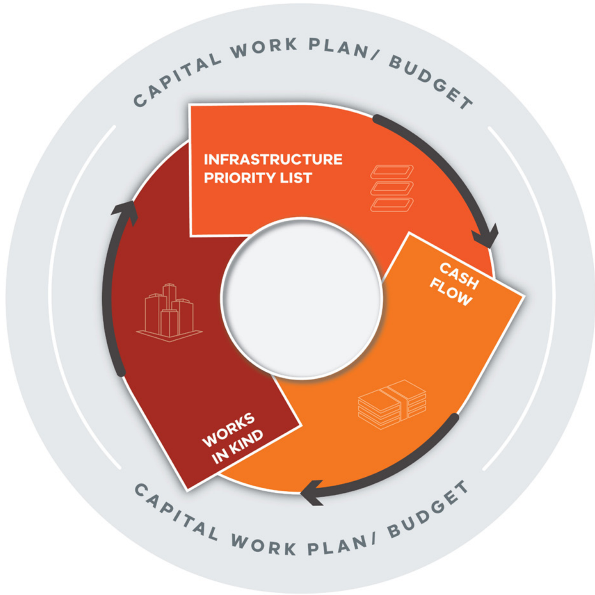
- Ensuring there is no negative financial impact on the DCP;
- Can the potential changes to the land budget tables be managed within the affected land with no impacts on other land;
- Will the potential land budget changes affect other calculations – eg public open space;
- Will the potential land budget changes assist in delivery of a works in kind project;
- Whether the DCP project can still be delivered and function as intended; and
- Is there a transparent way of documenting the potential land budget changes

Examples of typical changes to the DCP land use budget:

- There is flexibility to change the location of the DCP project within the designated land holding i.e. the local park may be best located in an alternative location once the detailed subdivision design is prepared. This is merely a change in location or the shape of the project within the same property not a change in area of the project.
- The area of an active open space for playing fields may be reduced slightly (e.g. a reduction of 0.5hectares) due to topographical, native vegetation or other reasons. Council has tested the revised size and determined it is still fit for purpose and has resolved to accept the slightly reduced area. In this instance, the land credit applied for the provision of this land would also be reduced by 0.5 hectares.
- Sometimes the project land area changes such as the detailed design determines that the area required for the retarding basin was over estimated and the detailed design has shown that 1 hectare less land is required. In a metropolitan DCP this issue is relatively straight forward as Melbourne Water deals with securing the retarding basin land, and the collecting agency will typically treat the additional 1 hectare as developable land and will typically charge a DCP DIL on this area. In a regional context the approach may effectively be the same to the situation where a DSS applies but there will be a need to document the changes to the property specific land budget.
- In some instances where further detailed design such as an urban design framework or the like is required or a master plan is prepared, the final plan may result in the adjustment of several DCP land projects which affect more than one land holding. The collecting agency may agree to this variation if:
  - The DCP land areas for the projects have remained the same, the distribution across the three properties concerned has just changed;
  - The DCP projects will be delivered as per the intent of the project description;
  - The three affected landowners agree to the change;
  - The original land values applied to the original projects are retained but redistributed across the three landowners based on the reallocation so there is no net financial impact on the DCP; and
  - All landowners sign a section 173 agreement setting out the land to be provided, agreeing to the revised land budget and the land credit value.

Occasionally there are instances where substantial changes are proposed which will significantly impact the detailed land use budget – these may include the addition of schools, redesign of large district or regional parks, substantial reviews of a drainage strategy etc which will result in changes to the quantum of land and number of properties affected and will ultimately impact on the value of the projects and the DIL charge rates. In the situation where the proposed changes cannot be managed within the affected landholdings and where there is an overall financial impact on the DCP a full review of the DCP is required followed by a full planning scheme amendment to give effect to the changes.

Figure 19: Relationship between IPL, cash flow model and works in kind agreements.



Infrastructure Review and Infrastructure Priority List (IPL)

Having a more strategic, overall picture of the likely roll-out of a DCP, Informal Shared Funding Arrangements and infrastructure requirements secured through Section 173 Agreements will enable Council to be more informed and proactive when considering the implications for funding infrastructure and negotiating with developers at the planning permit stage.

Preparation of an Infrastructure Priority List (IPL) is an iterative process that informs and is informed by cash flow modelling and the works in kind agreements council has entered into as illustrated in Figure 19.

Purpose of an IPL

In order for Council to have a clear understanding of their infrastructure commitments within DCP's, Informal Shared Funding Arrangements, Section 173 Agreements and Councils Capital Works Program, an IPL will be prepared for each DCP area within the municipality.

The IPL is indicative only, but it enables Council to have a strategic basis upon which to undertake individual planning permit reviews, and specifically, to understand when infrastructure is likely to be needed, and when the DCP, Informal Shared Funding Arrangement or Section 173 Agreement fund will have sufficient funds to pay for required infrastructure.

An IPL will be a particularly important tool for Council Officers when negotiating works in kind (WIK) projects with developers. As the relevant Council officers will be able to compare the proposed WIK arrangement against the IPL to determine if it aligns with Council's overall development sequence, identify funding impacts i.e. is a project proposed to be delivered much sooner than planned and how will this impact upon the overall cash flow and potential timing of reimbursements, based on this information should council accept the proposed WIK arrangement and if it does, are any modifications required to be made to the IPL.

Preparing an IPL

Each IPL will identify short, medium and long term projects and identify an indicative timeframe for delivery. The IPL will be based on a logical and sequential development patterns, and the infrastructure necessary to support such development. The IPL will also take into account existing infrastructure and service provision shortfalls and gaps.

In order to prepare an IPL consideration should be had to the following:

» Likely staging of development within the Structure Plan or Agreement area;
» Staging of DCP infrastructure items having regard to the above;
» Likely timing and sources of funding for externally funded projects;
» Implication for the DCP fund's cash flow as a result of DCP payments (from development) and credits (from works in kind);
» Any 173 Agreements that Council has entered into;
» Any planning permit that has been issued; and
» Having regard to the development staging, confirmed delivery times, known reimbursements and cash flow Council officers will determine the likely timing of each project and staging of reimbursements (if applicable).

An IPL will assist in informing the Capital Works program. This will ensure a collaborative approach within Council in regards to the timing and delivery of infrastructure projects.

INFRASTRUCTURE REVIEW AND INFRASTRUCTURE PRIORITY LIST (IPL)

Reviewing an IPL

An IPL is not a static document. The nature of growth area planning means that the situation and priorities can change over time, in response to market and economic conditions as well as State Government policy directions.

The annual review will assist in informing Councils Capital Works Program and annual budget process. The annual review should consider the following:

- » Any changes to the staging of development within the Structure Plan or Agreement area;
- » Changes to staging of DCP infrastructure items having regard to the above;
- » Any changes/updates in terms of timing and sources of funding for externally funded projects;
- » Implication for the DCP fund's cash flow as a result of DCP payments (from development) and credits (from works in kind);
- » Any new additional 173 Agreements that Council has entered into; and
- » Any new, additional planning permit that has been issued.

If there are any amendments proposed to the approved IPL outside the annual review process then the same approval process for the annual review must be followed. Any amendment to the IPL outside of the annual review period must provide strong strategic justification as to why the change is required.

Approving an IPL

Whilst Council's Policy and Procedures document will confirm how an IPL will be approved there are a number of options to consider when approving an IPL:

- » Formally endorsed/approved by Council;
- » Approved by Executive Leadership Team, which in turn informs the Council; or
- » Approved by the DC Board and once approved the Board inform the Executive Leadership Team and Council.

The development of an IPL is, amongst other things, informed by Council's cash flow modelling, which is detailed in the section below.

Figure 20 illustrates the key steps to prepare an IPL.

Figure 20: IPL Preparation Process.

Cash Flow Modelling

With increased development, there is often pressure to deliver substantial infrastructure in the early stages of a development to support a new community.

Early delivery of infrastructure can have a significant impact on Council's finances and management of each DCP or growth front. It is important for Council to undertake cash flow modelling for each IPL to ensure there is a clear understanding of the financial implications of officer decisions when undertaking negotiations for works in kind and timing of infrastructure delivery to coincide with the needs of the community and Councils priorities.

An additional component to consider as part of any cash flow modelling is 'external funding' to the DCP, Informal Shared Funding Arrangement or Section 173 Agreement. External funding is the amount of an infrastructure project that is not funded by the DCP, Informal Shared Funding Arrangement or Section 173 Agreement. In most instances Council will be responsible to fund the external component. As part of the cash flow external funding should be considered.

The cash flows may result in cash shortfalls being identified and may require Council to consider their approach to the timing and funding options available to deliver infrastructure.

If the cash flow modelling identifies funding shortfalls Council has the following options to consider:

- Revise the IPL to delay projects to ensure funding is available;
- Borrow money to fund the projects; or
- A combination of the two points above.

If the cash flow modelling identifies significant cash flow concerns for Council, specialised financial advice may be required on how Council should manage any cash flow gaps or funding shortfalls.

Council's DC Policy and Procedures document will outline the process for preparing a cash flow model and it is recommended that this process include the collection of the following information:

Expenditure

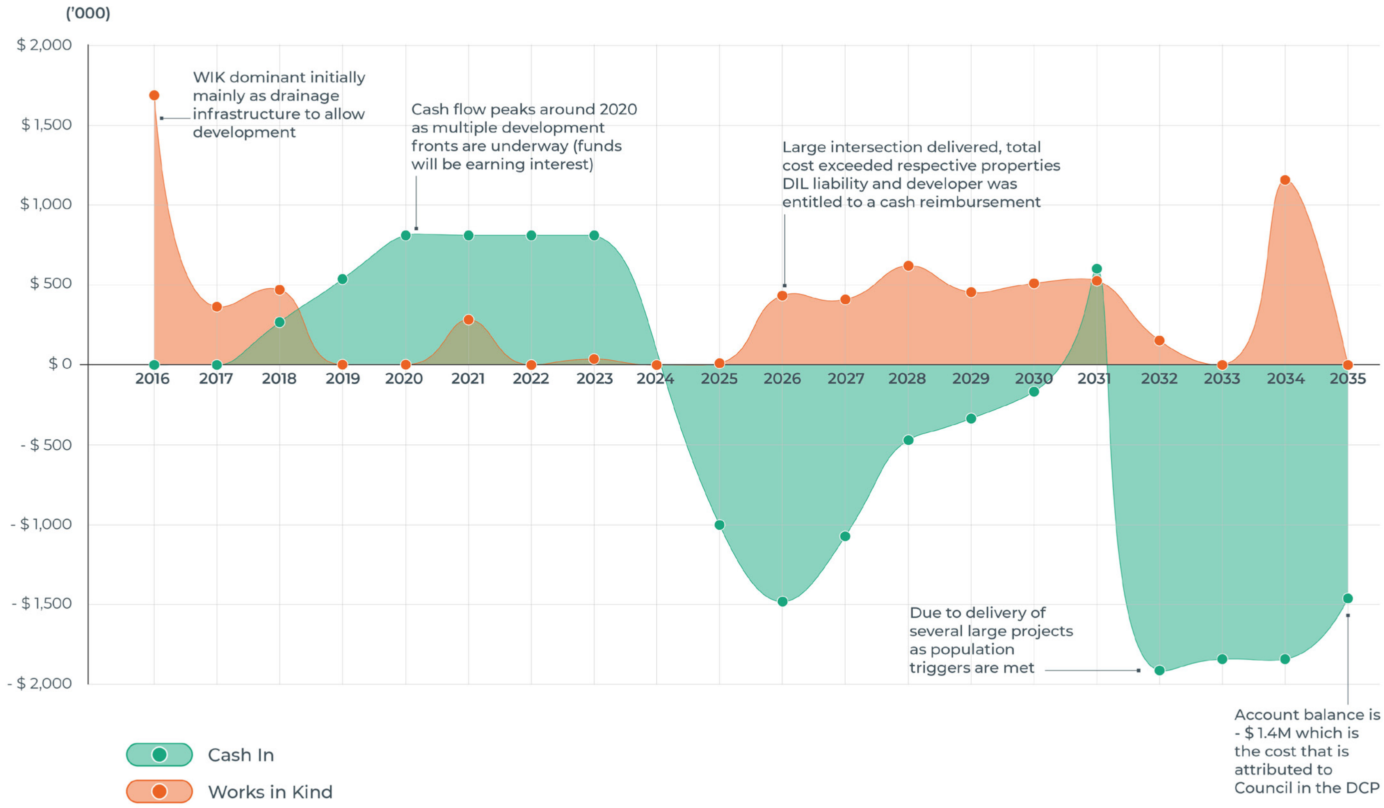
- Timing of infrastructure delivery (this will come from the IPL);
- Delivery method i.e. WIK, directly delivered by Council (this will come from the IPL);
- Value of projects being delivered to be credited (this will come from the IPL);
- Timing of reimbursements (via agreements, Memorandum of Understanding etc); and
- Timing of payments i.e. payment to contractor to deliver a project on behalf of council or via a Public Acquisition Overlay as determined under the Land Acquisition and Compensation Act.

Income

- Projected and known cash income (timing and amount). This requires the development sequence for the entire DCP area to be determined i.e. breaking properties up into stages etc and allocating likely timing;
- Projected and known land assets (WIK) (timing and amount);
- Projected and known infrastructure assets (WIK) (timing and amount); and
- External funds and grants (timing and amount).

Figure 21 provides an example of a cashflow model prepared for a regional DCP. This graph illustrates that the DCP account will not remain in the black (cash positive) throughout the life of the DCP, it is inevitable that the DCP account will go into the red and that this will need to be covered by Council whilst the DCP account recoups DIL payments.

Figure 21: Example of a Cashflow Model



Regional DCP Toolkit.

Works in Kind

DCPs and Informal Shared Funding Arrangements provide an opportunity for developers to deliver infrastructure projects, and potentially offset these costs against their Development Contributions Liability ('DIL'). This is known as 'works in kind'. Any DCP WIK may be required to be secured through a Section 173 Agreement.

There are many benefits of allowing developers to undertake works in kind.

These include:

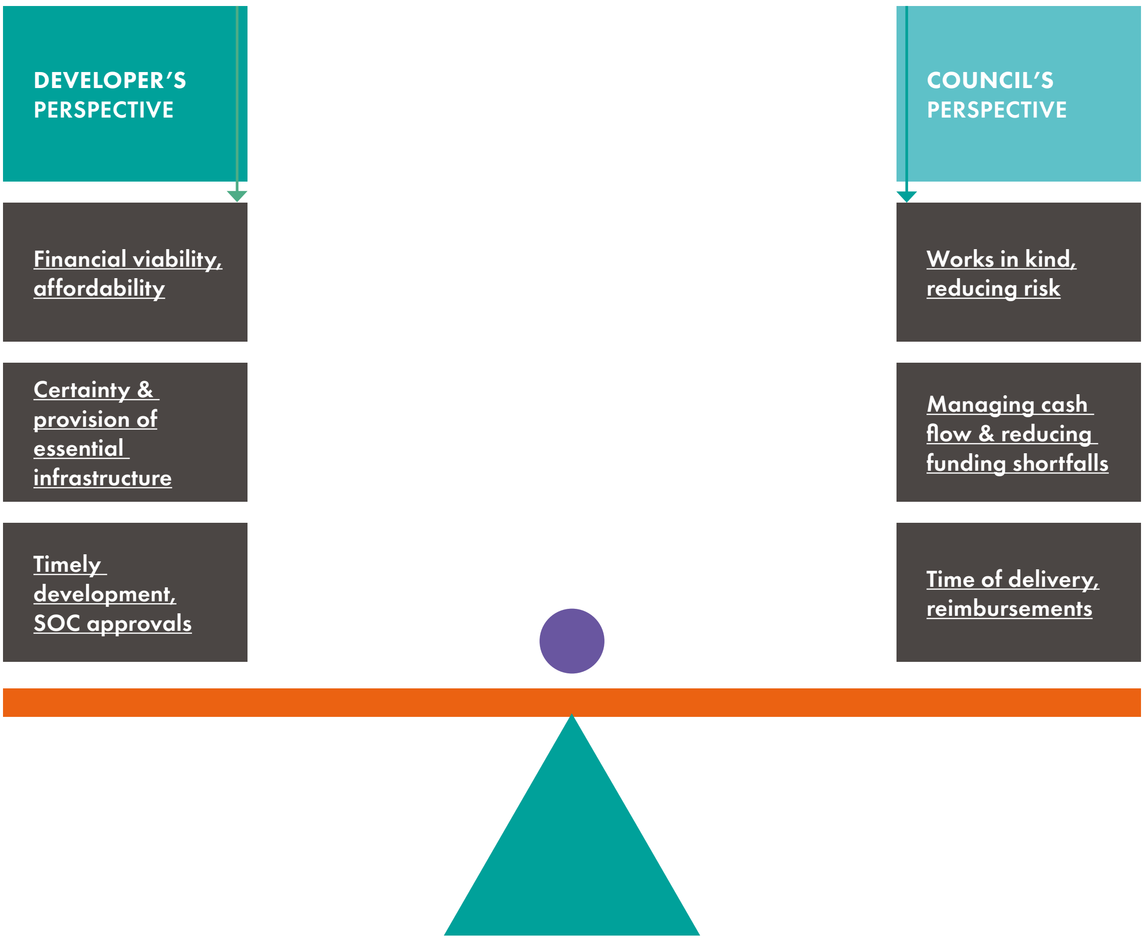
» Developers can often deliver infrastructure items more cost effectively than Council.
» Works can be integrated with subdivision development.
» There is less risk to Council in terms of funding and cash flow.
» Developers may provide for early delivery and funding of infrastructure.

However, there may be instances where it may not be worthwhile for Council to accept a WIK, this may be due to the fact that Council wish to directly delivery the infrastructure item or the infrastructure item is not required for a long period of time (this may be due to a property being developed 'out of sequence').

Figure 22 illustrates the balance between the objectives of council and the developer.

Council's policy and procedures document will outline the process for negotiating WIK.

Figure 22: Works in Kind -understanding the perspectives of both council and the developer



DCP

A collecting agency may accept land or infrastructure (or a combination of the two) in lieu of receiving the infrastructure levy as a monetary payment.

This is known as works in kind (WIK).

- Accepting a WIK proposal is at the discretion of the collecting agency.
- There is no right to review if a collecting agency refuses to accept WIK.

The collecting agency and development agency 'decide the timing for when a WIK credit is given, which will not necessarily be at the time the works are carried out. The timing should be linked to the infrastructure delivery priorities set out in the IPL.

Informal Shared Funding Arrangements and Section 173 Agreements

An Informal Shared Funding Arrangement and Section 173 Agreement will usually set out which projects are suitable to be delivered via WIK. An Informal Shared Funding Arrangement will usually include similar provisions to a DCP, whereas a Section 173 Agreement will usually include specific requirements in terms of projects to be delivered, timing and value of works to be credited.

Development Contributions Schedule

Permits issued for subdivision under a DCP must include a condition requiring the approval of a Schedule of Development Contributions prior to the certification of each stage.

The Schedule must outline the DIL liability payable for that stage, inclusive of any agreed credits for land / works in kind. The timing of reimbursements for works in kind and land acquisition must be consistent with any relevant Section 173 Agreement.

The Schedule must also show contributions paid in respect of earlier stages. Council will approve a schedule for each stage or alternatively, update a master DC schedule for the entire estate.

Figure 23. Summary of DCP 'schedule'

DCP Name
Estate
Property number/s property [insert number that corresponds to DCP parcel specific property land budget]
Stage/s of development
Developer
Precinct Infrastructure Plan
Planning Permit No.
Date insert date invoice created

DCP Charges applicable at time SOC is being sought

DCP Precinct/ charge area (if applicable)	Development Type	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL DIL Charge per NDA
insert year (indexed year i.e. 2019) and DCP name	Residential	$85,500	$66,780	$2,800	$7,000	$851	$30,904	$564	$194,399.00
insert year (indexed year i.e. 2019) and DCP name	Commercial/ employment	$85,500			$0	$851	$30,904	$564	$117,819.00
insert year (indexed year i.e. 2020) and DCP name	Residential	$91,340	$69,600	$3,500	$9,500	$1,050	$34,500	$564	$210,054.00
insert year (indexed year i.e. 2020) and DCP name	Commercial/ employment	$91,340			$0	$1,050	$34,500	$564	$127,454.00

DCP Liability for Estate [insert name], [insert address and property number that corresponds with DCP property specific land budget]

Stage	NDA (hectares)	Development Type	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL DCP liability	Statement of Compliance Date (SOC) Date	Plan of Subdivision Number	Planning File Reference Number	Notes
Stage 1	4	Residential	$342,000.00	$267,120.00	$11,200.00	$28,000.00	$3,404.00	$123,616.00	$2,256.00	$777,596.00	03.04.2019	PS xxxxx	1234	
Stage 2	2.5	Residential	$213,750.00	$166,950.00	$7,000.00	$17,500.00	$2,127.50	$77,260.00	$1,410.00	$485,997.50	05.06.2019	PS xxxxx		
Stage 3	1.5	Commercial	$137,010.00	$104,400.00	$5,250.00	$14,250.00	$1,575.00	$51,750.00	$846.00	$315,081.00	08.09.2019	PS xxxxx		
Stage 4	3	Residential	$274,020.00	$208,800.00	$10,500.00	$28,500.00	$3,150.00	$103,500.00	$1,692.00	$630,162.00	18.01.2020	PS xxxxx		
Stage 5	4	Residential	*$365,360.00*	*$278,400.00*	*$14,000.00*	*$38,000.00*	*$4,200.00*	*$138,000.00*	*$2,256.00*	*$840,216.00*		PS xxxxx		DIL charges are estimates only based on 2020 rates, final DIL charge will be determined when SOC is sought
Stage 3	3	Residential	*$274,020.00*	*$208,800.00*	*$10,500.00*	*$28,500.00*	*$3,150.00*	*$103,500.00*	*$1,692.00*	*$630,162.00*		PS xxxxx		DIL charges are estimates only based on 2020 rates, final DIL charge will be determined when SOC is sought
Stage 4	2	Residential	*$182,680.00*	*$139,200.00*	*$7,000.00*	*$19,000.00*	*$2,100.00*	*$69,000.00*	*$1,128.00*	*$420,108.00*		PS xxxxx		DIL charges are estimates only based on 2020 rates, final DIL charge will be determined when SOC is sought
TOTAL DCP Liability			**$1,788,840.00**	**$1,373,670.00**	**$65,450.00**	**$173,750.00**	**$19,706.50**	**$666,626.00**	**$11,280.00**	**$4,099,322.50**				

DCP Credits for Estate [insert name], [insert address and property number that corresponds with DCP property specific land budget]

Stage	DCP Project Number	Land or Construction	Area of land (ha) or lm of road or shared path to be constructed etc	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL agreed value of WIK/land provision to be credited	Statement of Compliance Date (SOC) Date	Plan of Subdivision Number	Planning File Reference Number	Notes
Stage 1	RD10	Land	0.7	$91,000.00							$91,000.00	03.04.2019	including the road reserve that was vested in council as part of project RD10		i.e date pracitical completion issued
Stage 1	RD11	Construction	650	$975,000.00							$975,000.00	03.04.2019			
Stage 2	IT01	Construction		$1,800,000.00							$1,800,000.00	05.06.2019			
											$0.00				
TOTAL DCP Credits				**$2,866,000.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,866,000.00**				

Summary (Balance) of DCP Liability and Credits

	Roads	Community Facilities	Active Open Space	Passive Open Space	Shared Paths	Drainage	Strategic Planning	TOTAL
TOTAL DCP Liability	**$1,788,840.00**	**$1,373,670.00**	**$65,450.00**	**$173,750.00**	**$19,706.50**	**$666,626.00**	**$11,280.00**	**$4,099,322.50**
TOTAL DCP Credits	**$2,866,000.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$2,866,000.00**
DCP Balance	**-$1,077,160.00**	**$1,373,670.00**	**$65,450.00**	**$173,750.00**	**$19,706.50**	**$666,626.00**	**$11,280.00**	**$1,233,322.50**

Given WIK credits are approximately $2.86M in value, it is anticipated that the Council will let the developer work these off i.e. the developer will only start to make DIl cash payments once the credits have been

		DATE
Invoice prepared by	[insert council office name]	[insert date]
Invoice signed off by	[insert council officer name]	[insert date]

Regional DCP Toolkit.

Developer Rolling Credits

Where a developer is in credit for works-in-kind/land provided for a stage of development in excess of their DIL levy obligation; Council can agree to the credit being carried forward to offset DIL levy payments in future stages or apply such credit as a DIL/ICP levy payment against another land parcel within the DCP.

Although, no payment is required at completion of each stage of development until the developer's credit is exhausted, the DIL rate and DCP infrastructure projects are still required to be approved on a stage by stage basis.

The indexation rate is confirmed 21 days prior to SOC for that stage of development using the current DIL rate and DCP infrastructure project costs. There will be no further indexation of the DIL rate or DCP infrastructure projects.

Section 173 Agreement

For large WIK arrangements Council should consider entering into Section 173 Agreements with developers to formalise works in kind and land acquisition, and ensure that these commitments are tied to the land.

The agreement implements the approved development contribution schedule; outlines the works to be provided by the developer, and the negotiated timing for the handover and reimbursement related to any land DC projects.

Community Infrastructure Levy (Formal DCP Implemented via a Development Contributions Overlay)

The Community Infrastructure Levy (CIL) is generally paid by homeowners prior to the issue of a building permit for the construction of a dwelling.

The current rate is capped at $1,210 per dwelling in 2020/21, however the actual amount collected under Council's existing DCPs varies for each DCP. Some developers may choose to pay CIL for their development as opposed to passing the cost onto the homeowner.

The CIL funds specific DCP projects which are used for buildings or facilities that have a community or social purpose.

Each DCP clearly indicates which DCP items are funded by DIL or CIL. It is important to note that due to the fact that the CIL has always been 'capped' that the CIL projects are usually underfunded.

Handover of Infrastructure Projects

When a developer advises that a DCP project is complete, Council is required to inspect the project and issue Practical Completion if the works are completed to the satisfaction of Council.

For a project to be handed over to Council a number of steps will need to occur as follows:

» Relevant internal departments inspect the project and sign-off;

» The development contributions credit for the project is calculated based on the DCP project value indexed to the year of completion;

» A Statement of Practical Completion is issued which includes the value of credit given for the item provided in-kind;

» For buildings and works the project is required to be added to the Council Asset Register

» For land acquired titles are required to be provided to Council; and

» Insurance notification of the asset and records the asset as non-recurring income is required.

Due to the new Ministerial Reporting requirements for DCPs it is important that Council officers record in the asset register whether or not a project is a DCP project, or part of a DCP project

One of Council's key responsibilities when administering DCPs, and Section 173 Agreements is to ensure that the rates are adjusted regularly to keep pace with escalation in costs of construction and land.

DCPs, Informal Shared Funding Arrangements & Section 173 Agreements

Each DCP, Informal Shared Funding Arrangement and Section 173 Agreement requires adjustment to occur. Most of these are indexed annually and this is usually undertaken on 1 July each year, although this can vary.

DCPs, Informal Shared Funding Arrangements, and Section 173 Agreements can include projects containing construction and/or land components which will need to be indexed.

Construction costs:

Indexed in accordance with a publicly available index as stipulated in the DCP or Section 173 Agreement.

Land values:

Escalated in accordance with the provisions included in the DCP or Section 173 Agreement.

The Community Infrastructure Levy (CIL) is currently set at $1,210 per dwelling and the indexed rates will be published on the Department's website.

Example of indexation of construction costs:

Original gazetted construction value of PS01 – shared path is $500,000 (This is in June 2018 $, think of this as year 1)

- Specified index i.e. ABS Producer Price Index for road and bridge construction is 117.1 for June 2018 (year 1)
- Specified index i.e. ABS Producer Price Index for road and bridge construction is 120.7 for June 2019 (year 2)
- Change in index is 1.0307 (or 3.07%) between year 1 and 2.

Indexed rate of PS01 is = $500,000 * 1.0307 (120.7/ 117.1) = $515,371.48 or alternatively this can be calculated by ($500,000 * 120.7)/ 117.1 = $515,371.48

Accountability and regular reporting are essential to the successful operation of all development contribution funding mechanisms. Each mechanism has specific reporting requirements, as described below.

DCP Accounting by collecting and development agencies

The Collecting Agency (Council) is required by the Planning and Environment Act 1987 and the Local Government Act 1989 to keep proper accounts of any levies paid to it.

A DIL or CIL can only be imposed through an DCP that forms part of the planning scheme. This ensures that the process for approving the plan (and any subsequent amendments to it) is open, transparent and provides for community involvement where necessary.

To ensure the DCP system is accountable and transparent:

- collecting agencies may only use levy funds for the purposes set out in the approved DCP;
- collecting agencies must maintain proper accounts of all infrastructure levies paid;
- collecting agencies must refund unspent levies or seek ministerial approval to use them for another purpose;
- all collecting and development agencies must report annually to the Minister on the collection and use of infrastructure levy funds and any WIK received; and
- councils must report on the collection and use of levies in their annual reports and they must submit an annual report to the Minister for Planning .

DCP Reporting by collecting and development agencies

Section 46QD of the Planning & Environment Act sets out the reporting requirements for DCPs.

Under these sections of the Act collecting and development agencies must report to the Minister on:

- the levy amounts collected by the collecting agency;
- any land, works, services or facilities (WIK) accepted by the collecting agency;
- any infrastructure delivered by the development agency from the levies collected; and
- any WIK.

In addition, these sections of the Act require collecting and development agencies to prepare a report to the Minister for Planning.

The reports must be:

- prepared each financial year;
- given to the Minister within three months after the end of the financial year reported on; and
- be prepared and presented in accordance with the standard templates provided in the Ministerial Directions.

A copy of the Ministerial reporting templates including content descriptors are set out in **Appendix 2**.

Informal Shared Funding Arrangements & Section 173 Agreements

Given Informal Shared Funding Arrangements and Section 173 Agreements are not incorporated documents like DCPs they are not subject to the same specific reporting requirements as set out in the Planning and Environment Act.

However, given these documents often involve substantial contributions via either cash payments, or works/land in kind is it very important that Council actively manage these agreements and keep proper records of the development contribution obligations, timing of payments and transfer of assets.

As development occurs, Council will gain a greater and more accurate understanding of the infrastructure triggers, requirements and costs within a DCP or Section 173 Agreement.

As such, regular review of a DCP, Informal Shared Funding Arrangements and Section 173 Agreements (if the Agreement allows) is critical to ensure that the document, including project scope and the estimated costs remain relevant and accurate. DCP documents usually specify a recommended review period, this is typically every 5 years. Informal Shared Funding Arrangements and Section 173 Agreements on the other hand can include a range of review periods or triggers, which can vary greatly and should be set out in the respective Agreements.

DCP Review

When reviewing a DCP, changes to the DCP can only be applied to future developers (i.e. it is not possible to retrospectively apply changes, unless it is to refund unspent funds).

Furthermore, changes to DCP costs can only be applied to future developers proportionate to their usage of each project. This means that if the cost of a project increases significantly, the DCP can only charge future developers the cost increase of their share of the infrastructure. Council will be required to fund the increase in cost of the share of the infrastructure used by land that has already developed.

A DCP review should include the following steps:

1. **Prepare a report to Council explaining why the review is being completed and the process of the review.**
2. **Undertake a holistic review of the DCP including:**
   - Review of all projects to confirm their scope, relevance and cost, having regard to the process of delivery to date and commission technical reports if required. It should also include the review of projects with external apportionment attributed to determine if there have been any changes to the catchment area;
   - Development rates to ensure yields delivered align with what was projected; and
   - Identify any changes to the land budget.
   - Table 2 sets out the details of the review process.
3. **Make changes to DCP document (tables and plans) in response to above review.**
4. **Prepare a Council report which sets out:**
   - Basis of the DCP review;
   - Justification/ reason for any changes to the DCP projects scope, cost, charge rates and implementation approach;
   - Identify all permits issued and key characteristics in terms of amount of net developable area (NDA) already granted statement of compliance, balance of NDA and likely timing (i.e. will statement of compliance be sought in the next three years) and likely works in kind projects associated with the current permits;
   - Set out Councils position regarding how they will deal with planning permits whilst the review is underway which will ideally include a resolution from Council that:
     - The review will not hold up the issue of planning permits and statement of compliance;
     - Council officers will consult with affected developers and explain the extent of the changes and impact on the DCP projects and DIL charges; and
     - Outline any transitional arrangements that will be implemented i.e. conditions on permit/ or 173 agreement that require a 'reconciliation' once the updated DCP has been gazetted. The report should clearly identify the current permits that are affected and quantify the NDA and potential WIK and outline the changes/ implications the revised DCP will have on these.
   - Outline next steps; and
   - Recommendations.
5. **Note that justification (in the form of revised design/ costings) will be required to support changes in a DCP.**
6. **Place the amended DCP on public exhibition. A minimum of 4 weeks exhibition is recommended.**
7. **Arrange a stakeholder workshop to explain and discuss changes (several workshops throughout the review process may be required).**
8. **Publicly notify affected landholders and place a public notice in newspapers specifying the amended DCP levy.**

DCP Review

Table 2: Key Tasks to be completed when reviewing a DCP

Task	Detail
Review of DCP Projects	Review of all DCP projects to identify whether the indexation mechanisms have kept pace with the market; identify changes in scope, location, external apportionment. **To complete the review of the projects it is recommended that the council review team complete:** **1.** A spot check of several projects within each infrastructure category to ensure the unit rates applied are consistent with the market (i.e. that the indexation mechanisms have kept pace with the market). **2.** Review of projects delivered as works in kind to identify if the costs have been in line with the DCP (another check to determine if indexation mechanism is current); whether there are any issues associated with the initial project scope and design – identify , quantify the issues and other projects that may be affected. **3.** Change in delivery strategy – has council or state government (i.e. access to 3 year old kindergarten) made any changes to the scope and delivery of projects that may affect the DCP projects. **4.** External apportionment – review to determine if any changes are required. **5.** Projects funded via CIL – review and determine if some projects may be best removed from the DCP (if they well exceed the cap and therefore are no t technically receiving any funding from the DCP). **6.** Review delivery timings – have these changed, are there key priority projects? If so, are finance costs required and should these be reviewed/included? **7.** Summarise the changes identified through the steps above and determine whether technical reports are required – this may involve updating existing reports or commissioning new reports.
Review of Urban Structure	Has the urban structure, DCP project location and scope changed that result in land budget changes? Including any change to the land use type i.e. residential and employment uses.If so, identify these and update the land budget.
Review of Yield projections	Review the yield projections of approved development to determine whether they align with the proposed projections included in the respective PSP and DCP. For DCPs that charge DIL based on a dwelling or m2 of floorspace, ensure the yields in approved developments are meeting the proposed property yields. If not, understand why this is the case and whether the overall yield for the DCP area needs to be revised to avoid a shortfall in contributions recovered under the DCP.
Audit of implementation to date	Review the development applications to date, identify whether internal processes are adequate, and if the DCP implementation and administration section requires updating.
Update the DCP document, tables and plans	Following completion of the above tasks that all the document, tables and plans should be updated this should be accompanied by a table of changes which explicitly notes what has been changed/ updated and why - this explanation will assist both the council executive and future planning panel.

Informal Shared Funding Arrangements & Section 173 Agreement Review

Each Informal Shared Funding Arrangement and Section 173 Agreement will include different review times and triggers and it is important that Council have a register of all Funding Arrangements and Section 173 Agreements that record specific review periods or triggers. Depending on the wording of a Funding Arrangements/Section 173 Agreement, there may be no ability to review the project scope, costs and timing of delivery included in the Agreement.

Future Section 173 Agreements should generally contain a requirement for the Table of Contributions and Payments to be updated annually to incorporate annual indexation of costs, any changes in time of delivery of works in kind or staged payments and reimbursements.

This will assist Council officers tracking the status of these agreements.

In summary, there are currently three main mechanisms available in regional Victoria to determine and collect development contributions.

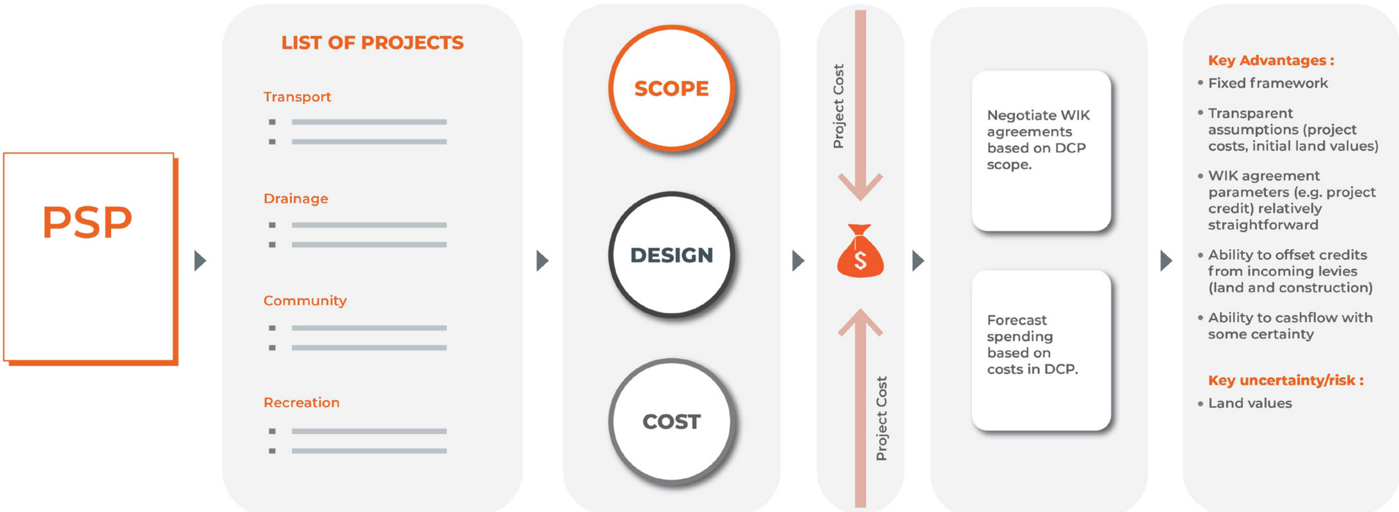
FUNDING MECHANISMS

SECTION 173 AGREEMENTS	▸ Legally binding, registered on title, both parties must agree (it's a voluntary agreement). Suitable when dealing with a single developer.	**RESTRICTED TO A SPECIFIED SITE/DEVELOPMENT CONTEXT.** **INCLUDES LIMITED SHARED PROJECTS.** **TYPICALLY INCLUDES SITE SPECIFIC INFRASTRUCTURE.**
INFORMAL SHARED FUNDING ARRANGEMENTS	▸ Flexible, less justification required and cheaper to prepare compared with a DCP but able to be challenged. Often included in a Development Plan document and implemented via 173 Agreements and suitable when land requires rezoning.	
DEVELOPMENT CONTRIBUTIONS PLAN (DCP)	▸ Strategic planning document (i.e. PSP) and technical reports required to justify projects. ▸ Projects identified, costed and apportioned to the main catchment area – construction projects costed via Quantity Surveyor or civil engineer, land independently valued. ▸ Total costs determine Development Infrastructure (DIL) rate (uncapped) and Community Infrastructure Levy (CIL) rates (CIL is capped at $1,190) ▸ A DCP is an incorporated document that is implemented via a Development Contributions Plan Overlay (DCPO). It requires a full Planning Scheme Amendment and preparation of a fully costed and strategically justified DCP document. ▸ Requires substantial resources in terms of both time and cost to prepare.	**DCPS ARE PLANNING IMPLEMENTATION TOOLS THAT FUND A BROAD LIST OF HIGHER ORDER, SHARED INFRASTRUCTURE OVER AN EXTENDED TIME PERIOD – I.E. 20 YEARS.** **USUALLY COVERS GROWTH AREAS COMPRISING OF A LARGE NUMBER OF PROPERTIES.**

When determining which funding mechanism to apply it is critical that the development context is reviewed and well understood.

DCPs are widely used across Victoria and are currently the predominant method for collecting development contributions across growth areas. Figure 24 summaries the key components of the DCP process.

Figure 24: Summary of DCP Process



Whilst preparing and implementing development contribution mechanisms is complex, time consuming and expensive, there are several keys to the successful implementation which are illustrated in Figure 25.

Figure 25: Summary of keys to success

appendix 1

DCP Ministerial Direction 11 October 2016

PART A: MINISTERIAL DIRECTION

Purpose

1. The purpose of this Direction is to direct planning authorities in relation to the preparation and content of a development contributions plan.

Definitions

2. In this Direction:

   a) ***development setting*** means any development setting described in the *Ministerial Direction on the Preparation and Content of Infrastructure Contributions Plans*;

   b) ***non-government school*** has the same meaning as in section 1.1.3 of the *Education and Training Reform Act 2006*;

   c) ***public open space*** means land set aside in a plan or land in a plan zoned or reserved under a planning scheme—

      - for public recreation or public resort; or
      - as parklands; or
      - for similar purposes;

   d) other terms relating to the use of land have the same meaning as in the Victoria Planning Provisions.

Limits on where a development contributions plan may apply

3. A development contributions plan must not be applied to land that is within a development setting to which an infrastructure contributions plan may apply. This does not apply to a development contributions plan for which notice of an amendment to the planning scheme was given under section 19 of the *Planning and Environment Act 1987* before 30 June 2017.

Exemption for non-government schools and certain housing

4. A development contributions plan must not impose a development infrastructure levy or a community infrastructure levy in respect of the development of land for:

   a) a non-government school; or

   b) housing provided by or on behalf of the Department of Health and Human Services.

What may be funded from a development infrastructure levy

5. The following works, services or facilities may be funded from a development infrastructure levy:

   a) Acquisition of land for:
      - roads
      - public transport corridors
      - drainage
      - public open space, and
      - community facilities, including, but not limited to, those listed under clause 5(f).

   b) Construction of roads, including the construction of bicycle and foot paths, and traffic management and control devices.

c) Construction of public transport infrastructure, including fixed rail infrastructure, railway stations, bus stops and tram stops.

d) Basic improvements to public open space, including earthworks, landscaping, fencing, seating and playground equipment.

e) Drainage works.

f) Buildings and works for or associated with the construction of:

- a maternal and child health care centre
- a child care centre
- a kindergarten, or
- any centre which provides these facilities in combination.

Exemption

6. The Minister may grant an exemption from the need to comply with this Direction in relation to a particular development contributions plan. An exemption may be granted subject to conditions.

Richard Wynne MP
Minister for Planning
Date: 11 October 2016

Examples of Development Contribution Planning Permit Conditions

Development Infrastructure Levy

A development infrastructure levy must be paid by the owner to the Collecting Agency in accordance with the provisions of the approved Development Contributions Plan applying to the land.

Unless otherwise agreed, the Development Infrastructure Levy must be paid to the Collecting Agency within the times specified in the Development Contributions Plan or if no time is specified then after certification of the relevant plan of subdivision but not more than 21 days before a Statement of Compliance is issued in respect of that plan under the Subdivision Act 1988.

Prior to the Certification of the Plan of Subdivision for each stage of the subdivision, or such other time as agreed, a Schedule of Development Contributions must be submitted to and approved by the Responsible Authority.

This Schedule of Development Contributions must show the amount of development contributions likely to be payable for each subsequent stage and the value of the development contributions in respect of prior stages to the satisfaction of the Collecting Agency.

OR

Prior to the issue of a Building Permit under the Building Act 1993 in relation to the development approved by this permit, a development infrastructure levy and a community infrastructure levy must be paid to **[insert name]** Council in accordance with the approved Development Contributions Plan pursuant to Schedule [insert number] of the Development Contributions Plan Overlay of the **[insert municipality]** Planning Scheme.

Requirement for a Section 173 Upfront

Where Council agrees that the permit holder can provide infrastructure or land identified in the [insert name] Development Contributions Plan **[insert date]**, in lieu of a cash payment of development contributions, Council and the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 which provides for:

a) Nomination of any infrastructure and/or land identified in the **[insert name]** Development Contributions Plan, **[insert date]** to be provided in lieu of the payment whether upfront or in stages of the levies/development contributions that would otherwise be required under conditions **[insert condition numbers]** of this permit.

b) The timing for the delivery of the 'in lieu' infrastructure and/or land outlined under point a and any crediting arrangements.

With respect to this condition if an agreement under Section 173 of the Planning and Environment Act 1987 is not entered into or ends, conditions **[insert condition numbers]** of this permit apply.

The permit holder must pay the reasonable costs of the preparation, execution and registration of this section 173 Agreement.

OR

Prior to the issue of a Statement of Compliance under the Subdivision Act 1988 for the first stage of subdivision, or such other time as agreed, the owner must, if required by the Responsible Authority, enter into an agreement, or agreements, under Section 173 of the Planning and Environment Act 1987 which specifies:

a) The infrastructure required to be provided as part of the development. The agreement must give effect to the approved Public Infrastructure Plan;

b) The development contribution to be paid in accordance with the Approved Development Contributions Plan; and

c) The timing for the delivery of the 'in lieu' infrastructure and/or land outlined under point a and any crediting arrangements.

Application must be made to the Registrar of Titles to register the 173 Agreement on the title to the land under Section 181 of the Act.

Community Infrastructure Levy

Prior to the issue of a Building Permit for the construction of any dwelling on a lot approved by this permit, the owner must make payment to Council for the provision of Community Infrastructure in accord with the **[insert name, date or DCP]** unless before the relevant plan of subdivision is certified under the Subdivision Act 1988, the owner enters into an agreement with the Responsible Authority made pursuant to Section 173 of the Planning and Environment Act 1987 ("the Act") and makes application to the Registrar of Titles to have the agreement recorded on the title to the land under Section 181 of the Act, which provides for payment to the Collecting Agency within a specified timeframe. Such time frame is to be agreed to between the owner and the Responsible Authority prior to the preparation of the agreement.

The owner must pay the Responsible Authority's reasonable costs associated with the preparation, execution and recording of the Agreement. The Agreement must be recorded on the title to the land pursuant to Section 181 of the Planning and Environment Act 1987.

Examples of Development Contribution Planning Permit Conditions

Public Infrastructure Plan

Before the Certification of Plan of Subdivision under the Subdivision Act 1988, for the first stage of the subdivision, a Public Infrastructure Plan (PIP), must be submitted to and approved by the Responsible Authority.

The PIP must show the location, type, staging and timing of delivery of all infrastructure on the land as identified in the **[insert name and date of plan]** and the **[insert name and date of respective DCP]**, or reasonably required as a result of the subdivision of the land and which addresses the following:

- The provision of the net developable area for each stage in accordance with the land budget definitions in the **[insert name]** PSP
- Stormwater drainage and water quality works;
- Road works internal or external to the land consistent with any relevant traffic report or assessment;
- The reserving or encumbrance of land for infrastructure, including land required for public open space and community facilities;
- Subject to the consent of the Collecting Agency, any infrastructure works set out in the DCP which an applicant proposes to provide in lieu of development contributions in accordance with the **[insert name and date of relevant DCP]**;
- The effects of the provision of infrastructure on the land or any other land;
- Any other relevant matter related to the provision of infrastructure reasonably required by the Responsible Authority.

The PIP may be amended with the consent of the Responsible Authority.

Once approved, the PIP must be implemented to the satisfaction of the Responsible Authority

OR

Prior to the certification of Stage 1, or at such later time which is agreed by the Responsible Authority, an amended precinct infrastructure plan must be submitted to and approved by the Responsible Authority.

The plan must show:

a. The subdivision layout in accordance with the plan endorsed under Condition No. **[insert number]** of this permit;

b. The staging of the subdivision in accordance with the plan endorsed under Condition No. **[insert number]** of this permit;

c. The provision of the net developable area for each stage in accordance with the land budget definitions in the **[insert name]** PSP;

d. The Public Infrastructure Plan (PIP) Plan Reference number in the table aligning with the PIP Plan;

e. Identification of land affected or required for the provision of infrastructure works;

f. The provision, staging and timing of stormwater drainage works;

g. The provision, staging and timing of road works internal and external to the land;

h. The embellishment of local parks in accordance with the **[insert name]** PSP

i. What, if any, infrastructure set out in the incorporated [insert name] Development Contributions Plan is sought to be provided as "works in lieu" or "works in kind", subject to the consent of the Collecting Agency, including for land projects and the quantum of land to be provided in-kind;

j. The provision, staging and timing of any other project identified for the site in the Precinct Infrastructure Plan at Appendix **[insert section]** of the **[insert name]** PSP; and

k. The provision, staging and timing of public open space.

All to the satisfaction of the Responsible Authority.

Implementation of PIP

Prior to the Certification of the Plan of Subdivision, under the Subdivision Act 1988, for the first stage of the subdivision, or such other time as agreed, the owner must, if required by the Responsible Authority, enter into an agreement under Section 173 of the Planning and Environment Act 1987 which provides for:

» The implementation of the Public Infrastructure Plan approved under this permit.
» The timing of any payments to be made to a person in respect of any infrastructure project having regard to the availability of funds in the DCP.

The Agreement must be recorded on the title to the land pursuant to Section 181 of the Planning and Environment Act 1987. The owner must be responsible for all reasonable costs associated with the preparation, execution and recording of the Agreement on the land title, including those incurred by the Responsible Authority.

Open Space Conditions

Before a Statement of Compliance is issued under the Subdivision Act 1988 for any stage, a public open space contribution of [insert %] must be provided in accordance with the schedule to Clause 53.01 of the [insert name] Planning Scheme in a manner consistent with the [insert name] Precinct Structure Plan and the terms of any Section 173 Agreement required / prepared under this permit.

Land required for public open space as a local or district park, as set out in the [insert name] Precinct Structure Plan or the **[insert name]** Development Contributions Plan, must be transferred to or vested in Council at no cost to Council unless the land is funded by the **[insert name]** Development Contributions Plan.

OR

Prior to the issue of a Statement of Compliance for any stage of the subdivision, development and open space contributions must be paid to the Responsible Authority in accordance with the approved [insert name] Development Contributions Plan and Clauses 45.06 and 53.01 of the **[insert name]** Planning Scheme, unless otherwise agreed to in writing by the Responsible Authority.

Ministerial Reporting Requirements for DCPs

Below are the Ministerial Reporting Templates which include content descriptions to assist council officers.

[prepared by Mesh and shown in orange italics]

Table 1 - Total DCP levies received in [Insert Financial Year

DCP NAME AND YEAR APPROVED	LEVIES RECEIVED IN [INSERT YEAR] FINANCIAL YEAR ($)
e.g. DCP1 2016/17	*Report DIL + CIL combined (For internal process let's split but combine for reporting purposes)* *e.g. Estate 1 has delivered 3 stages however due to credit arrangements, no DCP payments have been received even though a liability has been accruing but offset. Take $0 DIL as being received for the purposes of calculating income for this report.*
TOTAL	

Table 2 - DCP land, works, services or facilities accepted as works-in-kind in [insert Financial Year]

DCP NAME AND YEAR APPROVED	PROJECT ID	PROJECT DESCRIPTION	ITEM PURPOSE	PROJECT VALUE ($)
e.g. DCP1 2016/17	*List only those projects (land vested/works delivered) with WIK claimed that are actually completed/transferred to Council/accepted in the financial year. Not based on credits issued or projects tied up in agreements.*	*Construction of Road 1.... (etc - take from DCP)*	*Is this just category? E.g. Transport?*	*Value to be reported is actual DCP value of the works completed, regardless of the share of DCP credits provided in that financial year.* *DCP indexed value only (additional costs are captured in Table 4)*
TOTAL				

Table 3 - Total DCP contributions received and expended to Date (for DCPs approved after 1 June 2016)

DCP NAME AND YEAR APPROVED	TOTAL LEVIES RECEIVED ($)	TOTAL LEVIES EXPENDED ($)	TOTAL WORKS-IN-KIND ACCEPTED ($)	TOTAL DCP CONTRIBUTIONS RECEIVED (LEVIES AND WORKS-IN-KIND) ($)
e.g. DCP1 2016/17	*Those levies reported in table 1. Actual cash payments received. DIL + CIL*	*Those levies spent on projects not delivered as WIK*	*total indexed DCP project value of WIK credits for project extent*	*Total levies received (DIL+CIL), plus Total indexed DCP value of WIK projects accepted (excluding additional costs)* *Income (Cash plus works/land in-kind) only - not deducting any expenditure*
TOTAL	**A**	**B**	**C**	**= A+C**

Table 4 - Land, works, services or facilities delivered in [insert Financial Year] from DCPs collected (for DCPs approved after 1 June 2016)

PROJECT DESCRIPTION	PROJECT ID	DCP NAME AND YEAR APPROVED	DCP FUND EXPENDED ($)	WORKS-IN-KIND ACCEPTED ($)	COUNCIL'S CONTRIBUTION ($)	OTHER CONTRIBUTIONS ($)	TOTAL PROJECT EXPENDITURE ($)	PERCENTAGE OF ITEM DELIVERED
		DIL + CIL *DCP Funds expended - Does not include any WIK credits. Includes cash spent in capital works program and general payments*	*Only the DCP credit extent applicable to that project as per value in Table 2*	*Council funds - from Council's capital works/ other budget.*	*Captures all grants, negotiated developer contributions, etc.*	*Total project cost*	*E.g. 70% of road project - representation of comparison to project listed in actual DCP plan*	
	TOTAL	**A**	**B**	**C**	**D**	**=A+B+C+D**		

PREPARED BY MESH WITH FINANCIAL ASSISTANCE FROM
VPA THE STREAMLINING FOR GROWTH FUND