



# A Guide to Developer Contributions for Water and Sewer

Incorporating  
Water and Sewer  
Development Servicing Plans  
Adopted 19 January 2005

Charges amended 01-07-2018

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## **1. INTRODUCTION**

Council has adopted Water and Sewer Development Servicing Plans which detail water and sewer development charges relative to development areas serviced by Berrigan Shire Council.

This guide to developer contributions is a condensed version of both the Water and Sewer Development Servicing Plans to enable staff to calculate the appropriate charges that may apply to each development to which the Plans apply.

This guide to developer contributions has not been adopted by Council and is for internal use only.

Should further information be required please refer to each individual Development Servicing Plan.

## **2. WATER SUPPLY**

### **2.1 Citation**

This Development Servicing Plan is called the 'Berrigan Shire Development Servicing Plan – Water Supply Scheme'.

### **2.2 Purpose of the Plan**

The aims and objectives of this DSP are to:

- a) provide an overall administrative framework under which specific water assets may be co-ordinated and constructed;
- b) ensure that adequate water infrastructure is provided for as part of new development;
- c) provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of contributions on an equitable basis;
- d) ensure that the existing community is not burdened by the provision of water infrastructure as a result of future development;
- e) enable Council to be both publicly and financially accountable in its assessment and administration of the Development Servicing Plan.

### **2.3 Area to which the Plan applies**

This plan applies to all lands that are likely to require connection and / or additional capacity within the water infrastructure systems servicing Berrigan Shire, and includes the townships of Barooga, Tocumwal, Berrigan and Finley.

This DSP supplements the provisions of the Berrigan Shire Local Environmental Plan, 1992 and any amendment or Local Environmental Plan that may supersede it.

This DSP supersedes all previous water contributions policies and charges adopted by the Council prior to the adoption of this DSP.

### **2.4 Operation of the Development Servicing Plan**

When a development consent has been issued (and that development will increase the previous demand upon water and / or sewerage systems within the area), Council will impose a condition as part of the consent requiring the submission of a Compliance Certificate under the Water Management Act. A Compliance Certificate states that the developer has satisfied Berrigan Shire Council that works and / or payment of a contribution has occurred in order to meet the additional demand likely to be created by that development.

The contribution is based on the demand of the development and is a contribution to the cost of infrastructure currently incurred (or planned to be expended) by Council in the provision of water and / or sewerage services in the area. The contribution required by Council is dependent

upon the type of development and the demand likely to be placed on the water and / or sewerage scheme. The greater the demand, the greater the proportion of the scheme's capacity will be required and hence creating the nexus for the contribution. The contribution may become accumulated funds for future augmentations in anticipation of future development or alternatively may be recoupment of costs previously incurred by Council for previous augmentation works.

## **2.5 When Contributions are payable**

Payment of development contributions should be finalised at the following stages:

- a) development applications involving subdivision – prior to the release of the subdivision certificate;
- b) development applications involving building work – prior to the release of the construction certificate;
- c) development applications involving both subdivisions and building work (eg. Integrated housing developments) prior to the release of the construction certificate;
- d) development applications where no construction certificate is required prior to commencement of the approved development.

## **2.6 Deferred / Periodic Payments**

Where the applicant can demonstrate that the settlement of the contribution in accordance with Clause 2.7 is unreasonable in the circumstances of the case, the Council may accept deferred or periodic settlement.

The applicant must make a written request and satisfy Council that:

- a) there are valid reasons for deferral or periodic payment;
- b) no prejudice will be caused to the community deriving benefit from the public facilities required by the proposed development;
- c) no prejudice will be caused to the efficiency and operation of the plan;
- d) the provision of the public facility in accordance with the adopted works schedule will not be adversely affected.

The conditions under which the Council may accept deferred or periodic settlement by way of instalments is that the instalment be paid before the work commences on any stage of the development as the amount calculated on a pro-rata basis in proportion to the overall development.

The conditions under which the Council may accept deferred or periodic settlement by way of a bank guarantee is that:

- (i) the bank guarantee be by an Australian Bank for the amount of the total contribution or the amount of the outstanding contribution;
- (ii) the Bank unconditionally pays the guarantee sum to the Council if the Council so demands in writing not earlier than 6 months from the provision of the guarantee or completion of the work whichever occurs first;
- (iii) the Bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- (iv) the Bank's obligations are discharged when payment to the Council is made in writing that the guarantee is no longer required.

Any outstanding component of the contribution shall be indexed, at the date of payment, by movements in the Consumer Price Index (CPI, All Groups – Sydney).

Indexing will be calculated from the date the contribution was due until the date of payment. The applicant will be required to pay the contribution, the accrued interest and any charges associated with establishing or operating the Bank security. Where a Bank Guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the originally contribution and accrued interest are paid.

## **2.7 Works in Kind**

The Council may accept an offer by the applicant to make a contribution by way of an 'in-kind' contribution or through provision of a material public benefit.

The offer may only be accepted if the applicant satisfies the Council that:

- (a) Payment of the contribution in accordance with the provisions of this DSP is unreasonable or unnecessary in the circumstances of the case; and
- (b) The 'in-kind' contribution will not prejudice the timing or manner of the provision of any particular facility or service for which the contribution is required; and
- (c) The value of the works to be undertaken is at least equal to the value of the contribution assessed in accordance with this DSP.

## **2.8 Indexation of Calculated Developer Contributions**

Where contributions have been imposed under this plan but not yet paid, these will be indexed, on an annual basis, by movements in the Consumer Price Index (CPI, All Groups – Sydney). Such indexation shall occur on, or about, the first day of July each year.

## 2.9 Review of the Plan

Berrigan Shire Council anticipates that it will review this DSP after a period of five (5) years. Matters for review may include lot production, proposed capital works, proposed investments, discount rates and changes to standards.

In the period between any review, developer charges will be indexed annually (1<sup>st</sup> day of July) on the basis of movements in the CPI for Sydney, in the preceding 12 months to December, excluding the impact of GST (see Section 2.10 – *Indexation of Calculated Developer Contributions* for details).

## 2.10 Use of Developer Contributions

Water supply development contributions may only be used for water supply purposes.

## 2.11 Consultation and Dispute Resolution

A developer who is dissatisfied with how the Berrigan Shire Council has calculated a developer charge has a right of appeal pursuant to the DLWC 'Guidelines for Calculating Developer Charges for Water Supply, Sewerage, and Stormwater, 2002'.

1. A developer who is dissatisfied with the way in which a water utility has calculated a developer charge may complain to the utility.
2. The General Manager of the utility is to review the complaint or cause it to be reviewed.
3. The developer, if still dissatisfied, may request that an arbitrator review the matter by way of arbitration. The arbitrator is to be appointed by agreement between the developer and the water utility.
4. The decision of the arbitrator is to be binding on both the developer and the utility.
5. Costs of the arbitration are to be borne equally by the utility and the customer.
6. The *Commercial Arbitration Act 1984* applies to any such arbitration.

It should be noted that not all aspects of the developer charge calculation are arbitral. That is, those matters of detail which are prescribed in DLWC's forecast horizon for expected net revenues and costs are parameters that are prescribed by DLWC.

### 3. DEVELOPER CHARGES – WATER SUPPLY

#### 3.1 Developer Charges (Residential Areas)

Table –Developer Charges

<b>DEVELOPER CHARGE (\$/ET) 2018/2019</b>	
<b>DSP Area / Year</b>	<b>2018/2019</b>
Tocumwal	\$7,103
Barooga Berrigan	\$4,206
Finley	\$1,960

#### 3.2 Developer Charges (Rural Residential Areas)

Table

**DEVELOPER CHARGE (\$/ET) 2018/2019**

Tocumwal	\$8,526
Barooga	\$5,049
Berrigan	\$5,049
Finley	\$2,295

**NOTE**

All water supplies to rural residential residences outside village boundaries must comply with the requirements of the Policy adopted by Council on 18 January, 2006 as outlined below:

**Water Supplies to Rural Residential Residences Outside Village Boundaries**

That the Council:

1. subject to an application to and agreement of the Council to provide the connection of town water supply to service new or existing rural residences outside the existing village boundaries with the following conditions:
  - a) That each property must have rain water storage tanks of minimum capacity 40,000L connected to collect rain falling on the roof area of the dwelling and reticulated for grounds watering.
  - b) That each property be subject to Council's normal town supply charges as determined from time to time.
  - c) The owner of the property must meet the full cost of reticulation extensions and connections.
  - d) The owner of the property must pay the headworks charges for water supply according to Berrigan Shire Council's Development Servicing Plan (DSP) as calculated before the application of discounts and phase in periods.

Contributions indexed 2.2% as per Consumer Price Index (CPI, All Groups – Sydney) - Full year Dec to Dec (as of 1 July, 2018)



- e) The owner of the property must either transfer water rights to Council for a total volume of 1500KI high security water per lot or pay to Council an amount equal to market value of such water rights.
- f) The Council gives no guarantee of pressure of the supply.

## **4. SEWER SUPPLY**

### **4.1 Citation**

This Development Servicing Plan is called the 'Berrigan Shire Development Servicing Plan – Sewer Supply Scheme'.

### **4.2 Purpose of the Plan**

The aims and objectives of this DSP are to:

- a) provide an overall administrative framework under which specific sewer assets may be co-ordinated and constructed;
- b) ensure that adequate sewer infrastructure is provided for as part of new development;
- c) provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of contributions on an equitable basis;
- d) ensure that the existing community is not burdened by the provision of sewer infrastructure as a result of future development;
- e) enable Council to be both publicly and financially accountable in its assessment and administration of the Development Servicing Plan.

### **4.3 Area to which the Plan applies**

This plan applies to all lands that are likely to require connection and / or additional capacity within the sewerage infrastructure systems servicing Berrigan Shire, and includes the townships of Barooga, Tocumwal, Berrigan and Finley.

This DSP supplements the provisions of the Berrigan Shire Local Environmental Plan, 1992 and any amendment or Local Environmental Plan that may supersede it.

This DSP supersedes all previous water contributions policies and charges adopted by the Council prior to the adoption of this DSP.

### **4.4 Operation of the Development Servicing Plan**

When a development consent has been issued (and that development will increase the previous demand upon water and/or sewerage systems within the area), Council will impose a condition as part of the consent requiring the submission of a Compliance Certificate under the Water

Management Act. A Compliance Certificate states that the developer has satisfied Berrigan Shire Council that works and / or payment of a contribution has occurred in order to meet the additional demand likely to be created by that development.

The contribution is based on the demand of the development and is a contribution to the cost of infrastructure currently incurred (or planned to be expended) by Council for the provision of water and / or sewerage services in the area. The contribution required by Council is dependant upon the type of development and the demand likely to be placed on the water and / or sewerage scheme. The greater the demand, the greater the proportion of the scheme's capacity will be required and hence creating the nexus for the contribution. The contribution may become accumulated funds for future augmentations in anticipation of future development or alternatively may be recouped of costs previously incurred by Council for previous augmentation works.

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- c) development applications involving both subdivisions and building work (eg integrated housing developments) – prior to the release of the construction certificate;
- d) development applications where no construction certificate is required prior to commencement of the approved development.

## 4.6 Deferred / Periodic Payments

Where the applicant can demonstrate that the settlement of the contribution in accordance with Clause 2.7 is unreasonable in the circumstances of the case, the Council may accept deferred or periodic settlement.

The applicant must make a written request and satisfy Council that:

- a) there are valid reasons for deferral or periodic payment;
- b) no prejudice will be caused to the community deriving benefit from the public facilities required by the proposed development;
- c) no prejudice will be caused to the efficiency and operation of the plan;
- d) the provision of the public facility in accordance with the adopted works schedule will not be adversely affected.

The conditions under which the Council may accept deferred or periodic settlement by way of instalments is that the instalment be paid before the work commences on any stage of the development as the amount calculated on a pro-rata basis in proportion to the overall development.

The conditions under which the Council may accept deferred or periodic settlement by way of a bank guarantee is that:

- (i) the bank guarantee be by an Australian Bank for the amount of the total contribution or the amount of the outstanding contribution;
- (ii) the Bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 6 months from the provision of the guarantee or completion of the work whichever occurs first;
- (iii) the Bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development in accordance with the development consent;
- (iv) the Bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required.

Any outstanding component of the contribution shall be indexed, at the date of payment, by movements in the Consumer Price Index (CPI, All Groups – Sydney).

Indexing will be calculated from the date the contribution was due until the date of payment. The applicant will be required to pay the contribution,

the accrued interest and any charges associated with establishing or operating the Bank security. Where a Bank Guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the originally contribution and accrued interest are paid.

#### **4.7 Works in Kind**

The Council may accept an offer by the applicant to make a contribution by way of an 'in-kind' contribution or through provision of a material public benefit.

The offer may only be accepted if the applicant satisfies the Council that:

- a) Payment of the contribution in accordance with the provisions of this DSP is unreasonable or unnecessary in the circumstances of the case; and
- b) The 'in-kind' contribution will not prejudice the timing or manner of the provision of any particular facility or service for which the contribution is required; and
- c) The value of the works to be undertaken is at least equal to the value of the contribution assessed in accordance with this DSP.

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In the period between any review, developer charges will be indexed annually (first day of July) on the basis of movements in the CPI for Sydney, in the preceding 12 months to December, excluding the impact of GST (see Section 2.10 – *Indexation of Calculated Developer Contributions* for details).

#### **4.10 Use of Development Contributions**

Sewer development contributions may only be used for sewerage supply purposes.

#### **4.11 Consultation and Dispute Resolution**

A developer who is dissatisfied with how a water utility has calculated a developer charge has a right of appeal pursuant to the DLWC 'Guidelines for Calculating Developer Charges for Water Supply, Sewerage, and Stormwater, 2002'.

1. A developer who is dissatisfied with the way in which a water utility has calculated a developer charge may complain to the utility.
2. The General Manager of the utility is to review the complaint or cause it to be reviewed.
3. The developer, if still dissatisfied, may request that an arbitrator review the matter by way of arbitration. The arbitrator is to be appointed by agreement between the developer and the water utility.
4. The decision of the arbitrator is to be binding on both the developer and the utility.
5. Costs of the arbitration are to be borne equally by the utility and the customer.
6. The Commercial *Arbitration Act 1984* applies to any such arbitration.

It should be noted that not all aspects of the developer charge calculation are arbitral. That is, those matters of detail which are prescribed in DLWC’s Guidelines are not subject to arbitration. For example, discount rates and the forecast horizon for expected net revenues and costs are parameters that are prescribed by DLWC.

## **5. DEVELOPER CHARGES – SEWER SUPPLY**

### **5.1 Developer Charges**

**Table:** Developer Charges

<b>DEVELOPER CHARGE (\$/ET) 2018/2019</b>	
<b>DSP Area / Year</b>	<b>2018/2019</b>
Barooga	\$1,960
Finley Tocumwal Berrigan	\$NIL

Contributions indexed 2.2% as per  
 Consumer Price Index (CPI, All Groups – Sydney)  
 - Full year Dec to Dec (as of 1 July, 2018)