

TEMORA SHIRE COUNCIL



TEMORA

The Friendly Shire

DEVELOPMENT INFRASTRUCTURE DEFERRED PAYMENT POLICY

ACTIVE

Review Details

ABOUT THIS RELEASE

DOCUMENT NAME: Development Infrastructure Deferred Payment Policy
CODE NUMBER: EW16
AUTHOR: Temora Shire Council
ENDORSEMENT DATE: 17 June 2021

REVIEW

Revision Date	Revision Description		Date approved by Council	General Managers Endorsement
June 2021	New Policy	1	17 June 2021	GCL
October 2021	Amendments to operational procedure	2	21 October 2021	GCL
March 2022	Amendments to policy	3	17 March 2022	GCL

PLANNED REVIEW

Planned Review Date	Revision Description		Review by
June 2022			

PART A Outline

Objectives

This policy is aimed at fulfilling the following objectives:

- (a) Support the provision of a sufficient supply of development ready land, to meet demand
- (b) Assist the progression of large-scale subdivision development that may not occur without financial assistance
- (c) Ensure that new subdivision development is appropriately designed to respond to reasonably expected future infrastructure needs and avoid future adverse impacts upon other development
- (d) Ensure that pioneering developers within urban release areas are not unreasonably burdened by the costs associated with major development infrastructure and that costs are shared by those who benefit from infrastructure provision.

Background

The residential population of Temora is currently increasing. Alongside improving economic conditions and emerging employment opportunities, the demand for new subdivision development has returned. Temora Shire is seeking to offer the opportunity for existing and future residents to build a new home, or a new employment premises, and support ongoing population retention and growth, whilst contributing to employment opportunities in the construction industry over the short-medium term.

However, the high cost of servicing new development remains a constraint to opening up vacant urban zoned land to new subdivision. This policy provides a framework for Council to consider requests from developers of proposed subdivisions to assist with managing the costs associated with Council owned infrastructure, specifically new roads, sewer and stormwater infrastructure.

The opportunity exists for Council to play a more active role in assisting landowners to develop land that is deemed strategically important to the future growth of Temora Shire. This could involve funding some or all of the upfront costs of the shared infrastructure components for which Council has responsibility.

A portion of these costs, commensurate to the level of usage of the developed land (as identified and costed during the planning stage), can be repaid to Council at the point at which the subdivided lots are sold. This releases capital for the developer to ensure the project can progress more quickly, and complements similar schemes offered by other service providers, such as Goldenfields Water County Council. It is also aligned to the support that Council provides to developers of employment generating

development from time to time, where there is a strong case that is aligned to Council's strategy.

Application

This policy applies to all land within Temora Shire. Council offers this scheme to all developers of land, to be assessed on a case-by-case basis.

The focus of this policy is major Council servicing infrastructure that services multiple development lots, with the proposal to involve the creation of at least three (3) or more additional lots. The policy does not apply to the costs associated with servicing individual lots.

Council officers will confirm that the proposed subdivision is permitted with consent in the land zone that applies to the subject land.

The application for deferred payment will not be finalised by Council until the proposal has a relevant development application approved by Council.

The applicant must agree in writing to the legal controls that will apply to the deferred payment agreement.

PART B Procedures

Application Procedure

A written application for consideration by Council for Development Infrastructure Deferred Payment is made by the land developer. The letter of request is considered on a preliminary basis by Council officers. Council officers will consider the following factors in assessing the request:

- Strategic importance of the site
- Current zoning of the land
- Scale of development proposed, which justifies Council assistance
- Estimated cost of Council infrastructure to service the development – roads, kerb and gutter, sewer, stormwater infrastructure
- Demonstrated demand for new development and/or demonstrated future lack of supply
- Provision of a business plan by the developer detailing development staging (if applicable), forecast development costs, forecast lot sale price and estimated sales period, involving current lot demand, to be verified by local real estate agents
- Financial capacity and level of financial commitment offered by the applicant
- Capability of the developer to undertake the project
- Proposed infrastructure design and response to reasonably expected future infrastructure needs (sewer and stormwater capacity, integration with existing road network)
- Current levels of financial assistance provided to the applicant
- Timeframe of the proposed development
- Current availability of Council funds to support deferred infrastructure payments

- Current borrowing interest rates available to Council (if applicable)

Each of these factors will be considered as part of a written assessment report to be completed by the relevant Council officers.

Where Council officers consider that a request has reasonable merit, the request will be referred to Council for their consideration and determination.

The applicant will be notified of the outcome of Council's decision in writing.

If the applicant wishes to appeal the decision of the Council officers, they may do so in writing and the matter will be referred to Council for their consideration and determination.

Where an application involves Council staff or Councillors who are directly involved with the assessment process, the application will be referred to an external assessment process.

Operational Procedure

The developer of the subdivision is responsible for payment to Council of the initial \$50,000 (or 10% of infrastructure value, whichever is greater) of Council infrastructure costs (road, kerb and gutter, sewer and stormwater infrastructure) before works commence. Council will only consider to deferred payment of infrastructure costs above the initial \$50,000 (or 10% of infrastructure value, as applicable).

The costs associated with the provision of Council infrastructure are provided on a deferred payment basis. Costs of infrastructure provision must be repaid to Council, at the point of sale of each lot serviced under the agreement.

In cases where it is determined that the full value of Council infrastructure will not be deferred, Council may require payment from the developer of the non-deferred value prior to works commencing.

Council will require input to the design and scale of Council infrastructure delivered under the agreement, to ensure services that are provided are of sufficient standard to meet current and future expected demand. Council is responsible for the delivery of infrastructure works covered by the agreement.

The timeframe for repayment of the deferred infrastructure payments is a maximum of five (5) years from the date of signing the agreement, or the completed sale of all lots proposed to be delivered by the subject application, whichever is sooner.

Only one Development Infrastructure Deferred Payment will be granted per applicant, irrespective of whether development is staged or not.

The applicant will be responsible for all legal costs incurred by Council in discharging responsibilities under this policy. The outstanding balance of advancements under the Development Infrastructure Deferred Payments Policy will attract an administration fee

equal to the T-Corp 5 year borrowing rate plus 0.5%. The administration fee will be calculated daily and invoiced quarterly to the developer, commencing on the day the maximum agreed advancement is reached, or the date from which it is determined that no further advancements will be required, whichever is sooner. Administration fees will not form part of the agreed maximum advancement amount. Legal and Administration fees will be charged.

The Development Infrastructure Deferred Payment agreement is confidential between Council and the applicant. No details of the agreement may be disclosed by the applicant to another party without the written authorisation of Council.

Legal Protections

The following legal mechanisms could assist Council to mitigate some of the risks associated with the scheme:

1. Funding Deed

An agreement between Council and the Developer that outlines the terms of the agreement. This will include a list and cost of the works to be undertaken by Council and outline the value of the works to be repaid and the mechanism for repayment. The agreement will also detail arrangements to protect the interests of Council in instances where there is a transfer of ownership of the subject land, situations where the developer falls into administration, or the subject land value becomes unviable to develop.

A sample funding agreement is attached to this policy for the purposes of demonstrating the likely terms of an agreement.

2. Registration of Caveat

Council will register a caveat on the title of the land to be developed. The caveat will be shown when a title search is conducted by the purchaser's solicitor. The caveat will be released at the time of sale only when the repayment is made to Council's solicitor.

Council will register a caveat on title of the land to be developed, that is, prior to development. The caveat is a registered secured interest which means it appears on any title search. Council will need to consent to the subdivision as Caveator. The Council will remain as Caveator on each individual lot once subdivided. Council will participate in each of the conveyancing transactions until such time as the debt owed to Council is repaid. It will be at Council's discretion whether all of the complete deferred payment is required to be paid on the sale of the first lot.

3. Registration of Interest

A registered interest provides protection to Council in the event that the developer is placed into administration. With this protection, Council, along with other registered interested parties, will be prioritised for payment from the disposal of assets owned the developer.

A registered interest on title provides security that the developer cannot assign the debt to the purchaser as part of the sale.

Limitations to this Policy

This policy does not include the following:

- Development infrastructure that is not within the control of Council, including water, electricity, telecommunications infrastructure.
- Development costs that are the direct responsibility of the developer, including site studies to support rezoning, Environmental Impact Statements, surveying, design costs, legal costs, earthworks, land purchase, private driveways, servicing connections to new development.