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# Works in Kind **Policy**

## Environmental Planning & Assessment Act Matters

For Works-In-Kind relating to Development Contributions levied under Section 7.11 of the *Environmental Planning and Assessment Act, 1979*

June 2021

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## Purpose

1. The purpose of this Policy is to establish the overarching principles for the consideration of proposals to provide a material public benefit in the form of Works-In-Kind (WIK), in lieu of full or partial satisfaction of condition/s of development consent requiring the payment of Development Contributions under Section 7.11 the *Environmental Planning and Assessment Act 1979* (EPA).

## Policy Statement

2. Council is committed to ensuring:
  - a. the delivery and maintenance of local facilities, services and other infrastructure to serve the needs of its growing population;
  - b. the provision of such is well-planned, appropriately timed and delivered, meets relevant construction and quality standards, and represents value for money for Council and the community; and
  - c. that any WIK proposals are assessed in an equitable and transparent manner.

## Scope

3. This Policy covers all elected members of Council, all personnel employed by Council, any person or organisation contracted to or acting on behalf of Council, any person or organisation employed to work on Council premises or facilities, and all activities of the Council.
4. This Policy applies to applicants that have received development consent subject to a Section 7.11 payment condition, and who propose the provision of material public benefits in the form of WIK as full or partial satisfaction of such a payment.
5. This Policy applies to new WIK proposals and variations to existing WIK Agreements requested or sought from the date of adoption of this Policy.
6. This Policy does not apply to:
  - a. the dedication of land to Council to satisfy the requirements of an adopted Contributions Plan or a condition imposed under Section 7.11 of the *Environmental Planning and Assessment Act 1979* requiring the dedication of land (however, it may apply to a WIK proposal for the embellishment of such land if identified within the relevant Section 7.11 Development Contribution Plan);
  - b. Local Infrastructure Contributions (LICs) (also known as Development Contributions) levied under any s7.12 Development Contribution plan, prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979 NSW* (the Act);
  - c. Any proposal or request to provide Material Public Benefits other than WIK.

d. Water Supply and Sewerage Developer Charges payable under a Development Servicing Plan levied under the *Water Management Act, 2000 NSW*.

7. This Policy is supported by WIK Guidelines, which may be reviewed as required, subject to endorsement of Council's Development Contributions Committee (DCC) and Council's Chief Executive Officer (CEO).

## General

8. Council is under no obligation to accept offers to enter into WIK Agreements.
9. Council will only consider applications to enter a WIK where the relevant Section 7.11 Contributions Plan provides that a WIK can be entered into for the carrying out of works in full or partial satisfaction of a monetary contribution condition of a development consent.
10. All WIK Proposals will be lodged and progressed in accordance with Council's WIK Guidelines.
11. All WIK Proposals will be evaluated against criteria established by Council's WIK Guidelines.
12. All WIK Agreements will be subject to the payment of securities.
13. All executed WIK Agreements will be recorded on a WIK Register maintained by Council.
14. The arrangements of any executed WIK Agreement will not be conditioned within a development consent.

## Compliance, monitoring and review

15. Suspected breaches or misuse of this policy are to be reported to the Chief Executive Officer. Alleged breaches of this policy shall be dealt with by the processes outlined for breaches of the Code of Conduct, as detailed in the Code of Conduct and in the Procedures for the Administration of the Code of Conduct.
16. Where works which would be the subject to a WIK Agreement have commenced or have been completed without a WIK Agreement being executed, Council will not enter into a retrospective WIK Agreement and will not reimburse the costs associated with the works undertaken.
17. This policy will be reviewed every four years, following the election of a new Council, or as required by legislative change.

## Definitions

**Act:** means the *Environmental Planning and Assessment (EP&A) Act, 1979*.

**Applicant:** means the person who has the written authority to act on behalf of the landowner of the land who has the benefit of a development consent that relates to that land.

**Contributions Plan/s:** means a plan prepared by Council in accordance with the provisions of Part 7, Division 7.1, Subdivision 3 of the Act and Regulations for the purposes of Section 7.11 or 7.12 of the Act.

**Contributions Plan Works Schedule:** means the schedule within a Contribution Plan which itemises the works, costs, staging and timing thereof to be delivered by the plan.

**Contributions Plan Works Value:** means the value assigned to the provision of an item of work or facility under a Contribution Plan.

**Council:** means the Central Coast Council which includes any reference to the former Wyong Shire Council or Gosford City Council.

**Development Application:** has the same meaning as within the Act.

**Development Consent:** has the same meaning as within the Act.

**Development Contribution:** means a Local Infrastructure Contributions (LIC) made by a developer under a planning agreement, monetary contribution, the dedication of land free of cost, or the provision of a public benefits to be used for or applied towards a public purpose.

**Development Contribution Condition:** means a condition imposed by the Consent Authority relating to the payment of monies in accordance with applicable Development Contribution Plans.

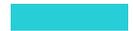
**Developer Contributions Committee (DCC):** means the internal Council Developer Contributions Committee, comprising relevant employees of the Council that review and provide advice in relation to offers from developers for proposed WIK in lieu of payment of contributions.

**Guidelines:** means the operational procedures and assessment Guidelines, as amended from time to time, and endorsed by the DCC or CEO.

**Local Infrastructure Contribution (LIC):** are fees charged by councils when new development occurs. They are used to provide infrastructure to support development, including open space, parks, community facilities, local roads, footpaths, stormwater drainage and traffic management.

**Material Public Benefit:** means a Work-In-Kind (WIK) which is listed in the works schedule of a Development Contributions Plan for which a monetary contribution would be normally sought, or the provision of certain public amenities or services that may or may not exist in the area that is not included in a Development Contributions Plan. A Material Public Benefit is not the dedication of land or the payment of a monetary contribution under the *Environmental Planning and Assessment Act, 1979*.

**Security/Securities:** means a financial amount of money paid to Council to pay costs associated with completion of any outstanding works to be undertaken by the applicant and/or rectification of defects of the works once completed.



**Work:** has the same meaning as within the Act.

**Works-In-Kind:** means the undertaking of work, or the provision of amenities, services or facilities, as nominated in a Contribution Plan's Work Schedule and includes reference to Contribution Offsets. It does not include the dedication of land.

**Works-In-Kind Agreement:** means the agreement between an applicant and Council which details the works, plans, costing, timing and other matters deemed necessary for the provision of Works-in-Kind.

**Works-In-Kind Policy:** means this policy.

## Related resources

18. Legislation:

- a. Environmental Planning and Assessment Act, 1979 (NSW)
- b. Local Government Act 1993 (NSW)

19. Associated documents:

- a. Council's Code of Conduct
- b. Central Coast Council Works-In-Kind Guidelines
- c. Central Coast Council s7.11 Development Contribution Plans (multiple)
- d. Central Coast Council s7.12 Development Contribution Plan



## History of revisions

Amendment history	Details
Original approval authority details	<p data-bbox="603 533 703 566">Council</p> <hr/> <p data-bbox="603 611 1150 645">Ordinary Meeting of Council 29 June 2021</p> <p data-bbox="603 672 1107 705">Minute Number of Resolution - 194/21</p> <hr/> <p data-bbox="603 745 1417 943">This policy sets out principles that apply to considering applications to undertake WIK in lieu or partial or full payment of Development Contributions payable and conditioned on a development consent under s7.11 of the <i>Environmental Planning &amp; Assessment Act, 1979</i>.</p> <p data-bbox="603 969 1374 1003">The policy may be underpinned by operational procedures.</p> <hr/> <p data-bbox="603 1059 1038 1093">CM document number: 14640926</p>