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# Works in Kind **Policy**

## Water Management Act Matters

For Works-In-Kind relating to Development Contributions levied under Section 306 of the *Water Management Act, 2000*

June 2021

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Policy owner:	Water and Sewer
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## Purpose

1. The purpose of the Works-In-Kind Policy is to provide a framework for Council to consider, and for applicants to apply to provide Works-In-Kind, in lieu of full or partial payment of Water Supply and Sewerage Developer Charges required under the Water Management Act 2000 (WMA).
2. The policy also allows for a refund to an applicant for any balance of the value of agreed Works-In-Kind that exceeds the amount of developer charges payable as identified in the Works In Kind Agreement.
3. The consideration of Works-In Kind, in lieu of full or partial payment of Section 7.11 Development Contributions required under the Environmental Planning and Assessment Act 1979 (EP&A Act) is covered by a separate Council Policy.

## Policy Statement

4. Council is committed to ensuring:
  - a. the delivery of water supply and sewerage infrastructure occurs as required 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

5. 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.
6. This Policy applies to applicants that:
  - a. Intend to lodge an application for development which is likely to be subject to developer charges payment condition/s should a Section 306 Requirements letter be issued; or have been issued a Section 306 Requirements letter for a development which is subject to a developer charges payment condition, and
  - b. Propose to undertake Works-In-Kind as partial or full satisfaction of making such payment.
7. This Policy applies to new WIK Proposals and variations to existing WIK Agreements requested or sought from the date of adoption of this Policy.
8. This Policy does not apply to:

- a. the provision of temporary assets or reticulation assets which are required to be vested in Council, at no charge to Council, as described in the Water Supply and Sewerage Development Servicing Plans.
  - b. Development Contributions payable levied under any s7.11 or 7.12 Development Contribution Plan levied under the EP&A Act.
  - c. Any proposal or request to provide Works-In-Kind that are not consistent with the intent of the Water Supply and Sewerage Development Servicing Plans (provide trunk water supply and sewerage capacity to service growth).
9. 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

10. Council is under no obligation to accept offers to enter into WIK Agreements.
11. Council will only consider applications to enter a WIK where the relevant Development Servicing Plan provides that a WIK can be entered into for the carrying out of works in full or partial satisfaction of developer charges payable shown on a Section 306 Requirements letter.
12. All WIK Proposals will be lodged and progressed in accordance with Council's WIK Guidelines.
13. All WIK Agreements will be subject to the payment of securities.
14. All Works-In-Kind Proposals will be evaluated against criteria established by Council's WIK Guidelines.
15. All executed WIK Agreements will be recorded on a WIK Register maintained by Council.

## Compliance, monitoring and review

16. 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.
17. 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.
18. 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 *Water Management Act (WMA), 2000*.

**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.

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

**Developer Charges:** means the provision made by a developer under a DSP, monetary contribution, or the provision of infrastructure to be used for or applied towards the provision of water supply and/or sewerage capacity to service existing or future growth.

**Developer Charges Payable:** means a condition imposed by Council as a Water Authority relating to the payment of monies in accordance with applicable DSPs.

**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.

**Development Servicing Plan (DSP):** means a plan prepared by Council in accordance with the provisions of the prevailing Independent Pricing and Regulatory Tribunal (IPART) determination on Water and Sewerage Developer Charges.

**Development Servicing 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.

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

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

**Material Public Benefit:** means a Work-In-Kind which is listed in the works schedule of a Water Supply and Sewerage Development Servicing Plan (DSP) for which a monetary contribution would be normally sought or the provision of certain water and/or sewerage infrastructure that may or may not exist in the area that is not included in a Water Supply and Sewerage Development Servicing Plan (DSP). 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.

**Water Management Act Application:** has the same meaning as within Section 305 of the Act.



**Water Management Act Requirements:** has the same meaning as within Section 306 of the Act.

**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

19. Legislation:

- a. Local Government Act 1993 (NSW)
- b. Water Management Act 2000

20. Associated documents:

- a. Council's Code of Conduct
- b. Central Coast Council Works-In-Kind Guidelines – Water Management Act Matters
- c. Central Coast Council Water Supply and Sewerage Development Servicing Plans (multiple)



## History of revisions

Amendment history	Details
<b>Original approval authority details</b>	<p>Council</p> <hr/> <p>Ordinary Meeting of Council 29 June 2021</p> <p>Minute Number of Resolution - 194/21</p> <hr/> <p>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>The policy may be underpinned by operational procedures.</p> <hr/> <p>CM document number: 14640932</p>