

Policy title	Development Contributions – Requests for Refunds
Responsible manager(s)	Chief Financial Officer
Contact officer(s)	Financial Accountant
Directorate	General Manager
Approval date	26 July 2022
Outcome area	5. Our engaged community with progressive leadership
Strategy	5.3 Work together to achieve our collective vision
Delivery Program	5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable
Operational Plan	5.3.1.1 Provide sound and strategic financial management and reporting

Purpose

Development Contributions, typically paid in association with a development consent, are a Restricted Asset of Council.

This policy is intended to provide:

- consistency in the processing of requests for refunds of Development Contributions
- compliance with legislative requirements under the Environmental Planning and Assessment Act 1979 and the Recovery of Imposts Act 1963
- conformity to relevant case law
- a readily accessible and understandable context for consideration of a request to refund Development Contributions.

Policy statement

1	Application This policy applies to requests for refunds of Development Contributions that have been paid.
2	Legislation Eurobodalla Shire Council will comply with the <i>Environmental Planning and Assessment Act 1979</i> and the <i>Recovery of Imposts Act 1963</i> .

Implementation

Requirements		Responsibility
1	Code of Practice This policy will be implemented by following Council’s Development Contributions – Refunds Code of Practice, which specifies in detail the procedures and matters to be considered.	Council officers
2	Staff Under supervision, applicable council staff will be responsible for ensuring that policies are implemented appropriately within their work area, after they have received relevant training to do so.	Council Officers

3	Concerns Public concerns communicated to Council in relation to this policy will be recorded on Council's records system and handled in accordance with Council's Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.	Council Officers
5	Consultation Any consultation deemed necessary will occur as required with key stakeholders, which may include (but not be limited to) the community, other agencies, statutory and industry bodies. Public submissions regarding this policy are invited for consideration during the exhibition period.	As applicable

Review

This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it; or when Council's related policies, functions, structure or activities change; or when technological advances or new systems change the way that Council manages refunds of Development Contributions.

The policy may be revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council updates or revokes it sooner.

Note: *The next general local government election is expected to be held in September 2020.*

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Concerns	Council records
Compliance with relevant legislation, case law & practice notes	Development Contributions Register

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Development Contributions – Requests for Refunds Code of Practice	www.esc.nsw.gov.au/inside-council/council/council-policies
<i>Local Government Act 1993</i>	www.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/
Environmental Planning and Assessment Act 1979	www.austlii.edu.au/au/legis/nsw/consol_act/epaaa1979389/
Recovery of Imposts Act 1963	www.austlii.edu.au/au/legis/nsw/consol_act/roia1963247/

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au/

Department of Planning and Infrastructure	www.planning.nsw.gov.au/~media/Files/DPE/Practice-notes/development-contributions-practice-notes-2005-07.ashx
Case law – NSW Court of Appeal	Frevcourt Pty Limited & Anor v Wingecarribee Shire Council [2005]
Case law – NSW Land and Environment Court	Denham Pty Limited v. Manly Council [1995]
Case law – NSW Court of Appeal	Baulkham Hills Shire Council v Wrights Road Pty Limited [2007]

Definitions

Word/Term	Definition
Development Contribution	A contribution paid towards the provision of public infrastructure in accordance with s93F, s7.11 or s7.12 of the Environmental Planning & Assessment Act 1979, or s64 of the Local Government Act 1993.
Restricted Asset	Funds held by Council that are restricted by legislation in their utilisation.

Change history

Version	Approval date	Approved by	Min No	File No	Change
1	28 Aug 2007	Council	07/244	06.0381 E05.9513	Refunding Developer Contributions Policy adopted by Council (doc 53005.07)
2	27 Aug 2013	Council	13/246	E13.7095 E05.9513	Updated template, updated review date, added links and references. Report O13/131.
3	9 May 2017	Council	17/120	E16.0297 E05.9513	Reviewed (start of new Council term) with minor referencing updates. GMR17/013.
4	26 July 2022	Council	22/154	E16.0297 E05.9513	Reviewed (start of new Council term) with minor referencing updates. GMR22/072

Internal use (Policy Register)

Responsible officer	Chief Financial Officer	Approved by	Council
Min	22/154	Report	GMR22/072
File	E05.9513	Review date	April 2022
		Effective date	26 July 2022
		Pages	3