



## **Local Planning Scheme No. 21**

### **Dunsborough Lakes Estate DEVELOPER CONTRIBUTIONS PLAN**

This Developer Contributions Plan outlines the developer's responsibilities for contributing towards district level active open space and associated facilities on Lot 9058 Commonage Road, Dunsborough Lakes.

Adopted by the Council pursuant to the City of Busselton Local Planning Scheme No. 21.

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**CITY OF BUSSELTON**

**DUNSBOROUGH LAKES ESTATE  
DEVELOPER CONTRIBUTIONS PLAN (DCP)**

**28 SEPTEMBER 2016**

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**1. Introduction**

1.1 This Developer Contributions Plan (DCP) applies to Lot 9058 Commonage Road, Dunsborough Lakes and an additional five parcels of land identified at Figure 1. It deals with cost contributions towards the provision of district level active open space and associated facilities and infrastructure. The area to which this plan applies is shown on Figure 1, although monetary contributions allocated under this Plan shall only apply to current Lot 9058. The DCP area is the subject of the Development Guide Plan for Dunsborough Lakes Estate (now required under Planning and Development (Local Planning Schemes) regulations 2015 to be called a 'Structure Plan'). The current endorsed version of this structure plan (revision P) is included at Figure 2.

1.2 The DCP has been prepared to comply with the requirements of the City of Busselton Local Planning Scheme No. 21 (the Scheme).

The WAPC will be requested to impose a condition requiring the implementation of the responsibilities and requirements of the DCP on subdivision approvals which relate to the land comprising Lot 9058 within the DCP area identified in Figure 1.

1.3 The land the subject of this DCP comprises a number of land ownerships currently zoned Special Purpose (Dunsborough Lakes Development Area) and identified on the Dunsborough Lakes Development Guide Plan (Structure Plan) for residential and related development. The total land area is approximately 76 hectares.

1.4 Developer contributions will take the form of cash contributions required on a per lot basis at subdivision clearance stage for current Lot 9058 only. The developer contributions will only apply to lots created for the purposes of residential development. Lots created for the purposes of non-residential development such as parks and reserves will not attract a cost contribution requirement pursuant to this DCP. Single lots created with the potential for further residential subdivision by green title, survey strata or built strata title subdivision will only make one single lot contribution at the time of the initial single lot subdivision or at Development Application stage, whichever occurs first. Subsequent creation of residential lots by green title, survey strata or strata title subdivision will attract a cost contribution for each additional lot pursuant to this DCP. The estimated dwelling yield in the DCP area that remains to be subdivided, being Lot 9058, Pt Lot 9057 to the west of Lot 9058 and Pt Lot 9057 St Michael's Parkway ('The Island'), is approximately 482 dwellings.

- 1.5 Pt Lot 9057 St Michael's Parkway (known as 'The Island') was formerly included, through Amendment 125 to District Town Planning Scheme 20, in Developer Contribution Area 1 (DCA1) but was subsequently removed from DCA1 through an amendment to Local Planning Scheme 21. Upon receipt of Ministerial approval to that amendment, Pt Lot 9057 was subsequently included in this DCP prior to adoption for final approval by the Council.
- 1.6 The DCP relates to the delivery of district level active open space and associated facilities and infrastructure adjacent to the primary school site. It does not include items of infrastructure that are usually provided by developers as they proceed with subdivision and development, such as local roads, utility services and primary school sites. The definitions used in this DCP are explained in Schedule 1- Interpretation.
- 1.7 The DCP applies to those parcels of land identified at Figure 1, although monetary developer contributions will only be required to be paid in direct relation to the subdivision and development of Lot 9058, which will be estimated to yield 255 lots. The Dunsborough Lakes Development Guide Plan (Structure Plan) designates a significant portion of the DCP area of Lot 9058 for recreational open space/playing fields to be utilised on a 'shared' basis with the adjacent future Dunsborough Lakes Primary School. Until relatively recently there has been no statutory mechanism to enable the City to require developer contributions towards the provision of recreational facilities within Dunsborough Lakes Estate and, as such, the City has not collected contributions for district-level active open space at Dunsborough Lakes to date. Therefore, it is seen as important and logical that all monetary developer contributions generated by the future subdivision and development of Lot 9058 be put towards the delivery of the active open space and associated facilities proposed to adjoin the future Dunsborough Lakes Primary School on land to be ceded to the City in the DCP area.

## **2. Purpose of the DCP**

- 2.1 The purpose of the DCP is to apply development contributions beyond the standard provisions required by WAPC policy on the subdivision of land for the development of district level open space and associated facilities and infrastructure and ensure that cost contributions are reasonably required as a result of the subdivision and development of Lot 9058 in the developer contributions area.
- 2.2 The developer will be responsible for the contributions in accordance with the DCP, together with other statutory and policy requirements, and agreements, as is relevant to the particular portion or stage of development of Lot 9058.

## **3. Period of the Plan**

- 3.1 The period for the operation of the DCP is 10 years, or until completion of the subdivision and development of Lot 9058 if sooner. After 10 years the DCP, if still operational, will be reviewed. In the meantime, the DCP may also be reviewed when appropriate between the City and the developer, having regard to the rate of development and the requirements of WAPC State Planning Policy 3.6.

## **4. Basis of the plan**

4.1 The DCP has been prepared having regard to *WAPC State Planning Policy 3.6: Development Contributions for Infrastructure* (2009).

4.2 The lot contribution applicable under this DCP will assist in the delivery and development of district level active open space and associated facilities and infrastructure.

## **5. Principles**

5.1 Development contributions are applied in accordance with the following principles set out in *State Planning Policy 3.6: Development Contributions for Infrastructure*:

- need and nexus;
- transparency;
- equity;
- certainty;
- efficiency;
- consistency;
- right of consultation and review;
- accountable.

5.2 The key principle is that the 'beneficiary pays' commensurate with the need generated by the subdivision of the land for community facilities.

## **6. Developer Contributions – Infrastructure Items**

6.1 The infrastructure items to be provided include: the ceding of land for public purposes (primary school site) and district open space; and the development of district level active open space, including playing fields, change rooms and related infrastructure such as parking, drainage, landscaping and lighting as determined by the City of Busselton. The infrastructure items subject to this DCP may be amended by the Council from time to time based on future identified requirements.

6.2 The land required to accommodate the district open space is to be ceded free of cost to the City of Busselton as a reserve for recreation at the first stage of subdivision of Lot 9058 (if practicable), or at a subsequent stage of subdivision of Lot 9058, agreed between the City of Busselton and the developer. The Dunsborough Lakes Primary School site is to be ceded, free of cost, to the Department of Education as a reserve for public purposes as part of the first stage of subdivision within Lot 9058. The final boundary between the primary school site and the district open space site will be subject to negotiation.

6.3 The calculation of the contribution payable under this DCP will go towards the delivery of district level active open space and associated facilities and infrastructure adjacent to the Dunsborough Lakes Primary School. The contribution is assessed at a cash equivalent of \$5,000 per lot and shall apply only to the subdivision of newly created lots

on Lot 9058. This contribution amount will be adjusted in accordance with movements in the Local Government Cost Index for WA (ABS) commencing 1 January 2015.

- 6.4 Contributions towards road, footpath and cycle network upgrades (pursuant to *Local Planning Policy 6E – Road, Footpath and Cycle Network Upgrade Contributions Provisions*) and community facilities (pursuant to *Local Planning Policy 6D – Community Facilities Contributions Provisions*) will not be imposed by the City of Busselton.

## **7. Cost apportionment**

- 7.1 The cost is apportioned to the developer and is based on the estimated dwelling yield of the subdivision and development of Lot 9058 only within the DCP area
- 7.2 The value of the land, for the purposes of land acquisition and distribution of costs, is not applicable to this DCP.

## **8. Liability for Cost Contributions**

- 8.1 Cost contribution requirements shall be satisfied by the payment of a contribution in accordance with the requirements of this plan.
- 8.2 Requirements for and payment of development contributions will be imposed by the WAPC as a condition of subdivision or by the City of Busselton as a condition of development. The liability of the developer to satisfy their cost contribution arises prior to whichever of the following two things occurs first with respect to any particular parcel of land within the DCP area:
- (i) the City endorsing a deposited plan for clearance of the relevant conditions prior to the WAPC endorsing its approval on the deposited plan relating to the subdivision of the developers land; or
  - (ii) the City approving the development of land, other than for the purposes of subdivision works.
- 8.3 There is no liability to pay a cost contribution for the development of the first single house or outbuildings associated with that first single house on an existing lot where the cost contribution for that lot has been paid on the subdivision of the land which created that lot.
- 8.4 In the case of grouped or multiple dwelling developments, cost contributions will be calculated at the rate of 100% contribution for each dwelling less a one lot credit for the creation of the parent lot if a contribution was paid with respect to the creation of the parent lot and paid at Development Approval stage.
- 8.5 For aged or dependent person dwellings the cost contribution will be 50% of the normal contribution.

## **9. Pre-Funded Cost Contributions**

- 9.1 A Deed of Agreement facilitating the single, pre-funded payment of the estimated total monetary developer contribution required under this DCP for the subdivision and development of Lot 9058 may be prepared and executed between the City of Busselton and the representative landowner or developer of Lot 9058.

**10. Administration of Funds**

- 10.1 The City will establish and maintain an account in accordance with the *Local Government Act 1995* for the purposes of funding the district level active open space and associated facilities and infrastructure in accordance with the DCP, into which cost contributions will be credited and from which all payments for the cost of infrastructure and administrative costs within the area will be paid. The purpose of the account is to ensure that the expenditure of funds from the development contributions is limited to the purposes set out in the DCP. Interest earned on cost contributions will be credited to the account.
- 10.2 The City will, on request, provide a statement of income and expenditure pursuant to the DCP to those relevant parties having made contributions pursuant to the DCP.

**11. Reimbursement of cash contributions for works undertaken and crediting of in-kind contributions**

- 11.1 If the representative landowner or developer of Lot 9058 undertakes works relating to the provision of infrastructure items specified in the DCP and:
- (i) the City has approved the design of the infrastructure as specified in the DCP;
  - (ii) a contract has been awarded for the construction of the infrastructure; and
  - (iii) an invoice for the works constructed under that contract has been certified by the Superintendent for the works;

the City will reimburse that developer for each and every claim made during or up to the completion of the works, from contributions received towards that infrastructure item to an amount equivalent to the proportional amount that will be received from all developers relating to specific works that are being undertaken by that developer.

- 11.2 Where the infrastructure is situated on land owned by that developer that is not transferred to the City at that time, a licence agreement between the developer and the City will be required to allow for the use of the facilities pending the transfer of the land to the City.
- 11.3 Where subsequent contributions are made towards the infrastructure item, the City will transfer those funds to the developer that undertook work within 3 months of the receipt of such funds. The amount of reimbursement is to be the amount contributed, plus any cost indexation prior to the contribution having been made and interest earned on the contribution once it was made. If a developer undertakes works to provide any of the infrastructure items or costs of the works exceeds the total value of contributions within the DCP area, the City is not required to reimburse the developer for any of the excess.

- 11.4 Where a developer has provided any infrastructure item ahead of the City having received all contributions relating to that infrastructure item, then subsequent contributions from the owners of the land that provided the infrastructure will be discounted by an amount proportional to the value of the infrastructure, minus the value of any contributions already received and which relate to that infrastructure.

## **12. Shortfall or excess**

- 12.1 If there is a shortfall in the total of cost contributions when all contributions have been made or accounted for, the City of Busselton may make good the shortfall or may negotiate with the developer to fund the shortfall.
- 12.2 If there is an excess in funds available to the development contribution area when all cost contributions have been made or accounted for and all listed infrastructure has been developed and land transferred, the City is to refund the excess funds to the contributing owners for that development contribution area in a manner proportional to the contribution from that owner. To the extent, if any, that it is not reasonably practicable to identify owners and/or their entitled amount of refund, any excess in funds shall be applied to the provision of additional facilities or improvements in the DCP area.
- 12.3 In the event clearances have been issued for the subdivision of lots on Lot 9058 in the DCP area, before the DCP is endorsed by the City, any shortfall in the value of contributions that would have been attached to that clearance had the DCP been endorsed by the City is to be paid to the City no later than 6 months from the date of endorsement of the DCP or otherwise as by agreement with the City.

## **13. Disposal of land prior to subdivision or development**

- 13.1 If a developer disposes of land within Lot 9058 prior to subdivision or development, the subsequent landowner will be liable for any outstanding development contributions for that land and is to be made aware of responsibilities pursuant to the DCP by the vendor.
- 13.2 If a developer disposes of land such that the whole of the undeveloped portion of Lot 9058 is no longer in a single ownership, it is the responsibility of the parties to negotiate appropriate arrangements to ensure delivery of contributions in accordance with the DCP.

## **14. Development of infrastructure**

- 14.1 The timing of the provision of infrastructure is to be determined by the City, in accordance with its broader responsibilities to meet the infrastructure and community facilities provisions for the City as outlined in the Scheme and this DCP and any relevant local planning policy.

## **15. Arbitration**

15.1 Any dispute between a developer and the City of Busselton in connection with the cost contribution required to be made by the developer in relation to Lot 9058 is to be resolved by arbitration in accordance with the *Commercial Arbitration Act 1985*.



**Schedule 1 Interpretations**

'Administrative Costs' means such costs as are reasonably incurred for the preparation and implementation of the development contribution and staging plan.

'Cost Contribution' means the contribution to the cost of items as identified in the Developer Contributions Plans.

'Developer' means a developer of land proposed for development for residential and related purposes in the developer contribution area of Lot 9058.