

COUNCIL POLICY	
Reference Number	971360
Responsible Business Unit	Development & Regulation
Responsible Officer	General Manager Sustainable Communities
Legislation	Development Act 1993 Development Regulations 2008 Planning, Development & Infrastructure Act 2016 Planning, Development & Infrastructure (General) Regulations 2017
Relevant Delegations	Development Act 1993 Development Regulations 2008 Planning, Development & Infrastructure Act 2016 Planning, Development & Infrastructure (General) Regulations 2017
Related Policies Management Guidelines Frameworks	
Link to Strategic Plan	Objective 2.1 - Land Use
Council resolution	Item 46.2
Date Adopted	12 th March 2019
Review Date	12 th March 2022
Previous Revisions	Nil

POLICY STATEMENT

A critical relationship exists between infrastructure, planning, design and development. The provision of appropriate, effective, efficient and timely infrastructure is essential to achieving affordable and sustainable living within the Rural City of Murray Bridge.

This policy is aimed at Physical Infrastructure that is related to proposed development within the Council's area.

OBJECTIVES

To provide guidance to Developers and Council staff on the:

- type of Physical Infrastructure that the Council may seek;
- circumstances in which the Council may seek Physical Infrastructure; and
- general processes the Council will follow to ensure delivery of Physical Infrastructure.

SCOPE

This policy applies to Physical Infrastructure related to Prescribed Requirements and Physical Infrastructure otherwise sought by the Council.

This policy does not apply to Social Infrastructure.

PRINCIPLES

Each development differs with respect to the level of Physical Infrastructure which should reasonably be provided to support that development. Developers may contribute towards Physical Infrastructure in different ways, such as by undertaking Physical Infrastructure works or contributing financially towards Physical Infrastructure works.

The Council will seek a contribution from a Developer towards Physical Infrastructure having regard to the following guiding principles:

- **Context:** considering the legislative and Development Plan policy framework regarding Physical Infrastructure;
- **Equity:** balancing the cost of Physical Infrastructure equitably across the development sector and communities;
- **Nexus:** considering that Developers have a responsibility to fund infrastructure that is reasonably necessary to accommodate their development, but recognising that where development contributes to (but does not necessitate) the requirement for Physical Infrastructure, the level of contribution should be balanced against the benefits of infrastructure provision, the scale of the development and the benefits to the wider community;
- **Consistency:** taking a similar approach in similar cases to achieve similar outcomes;
- **Transparency:** being open and transparent about the manner in which Council seeks Physical Infrastructure;
- **Economic Activity:** recognising the importance of Physical Infrastructure as a driver of economic growth and activity;
- **Timing:** seeking the delivery of Physical Infrastructure commensurate with need and appropriate staging of development; and
- **Design:** recognising that Physical Infrastructure should be designed to be:
 - fit for purpose;
 - cost effective;
 - efficient;
 - on a whole of life basis;
 - sustainable;
 - designed to an adequate but not excessive standard; and
 - consistent with Council's Standards (where applicable).

IMPLEMENTATION

WHEN MAY PHYSICAL INFRASTRUCTURE BE SOUGHT?

Physical Infrastructure may be sought by the Council when development necessitates, or contributes to, the need for its provision.

Types of development applications that may create a need for Physical Infrastructure may include:

- Land division
- Community Title land division
- Built form

WHAT TYPE OF PHYSICAL INFRASTRUCTURE MAY BE SOUGHT?

Types of Physical Infrastructure that may generally be sought by the Council may include (but are not limited to):

- Roads (sealing, upgrading, widening etc.)
- Traffic control devices
- Kerbing, guttering and verge provision and enhancement
- Driveway and road access
- Footpaths
- Street tree planting and landscaping
- Street lighting
- Stormwater infrastructure (pipes, swales, drains, culverts, erosion protection measures, basins)
- Telecommunications
- Water supply and wastewater
- Electrical services

WHERE MAY PHYSICAL INFRASTRUCTURE BE SOUGHT?

Physical Infrastructure may be sought:

- Onsite - on land to vest in Council
- Onsite - on land to remain in private ownership
- Offsite - on land owned by Council or another statutory authority

HOW WILL COUNCIL ENSURE PHYSICAL INFRASTRUCTURE IS DELIVERED?

STEPS	METHOD OF DELIVERY
1 – In Principle Agreement	Physical Infrastructure is agreed between the Council and the Developer early in the Development Assessment process.
2 – Draft Conditions	Where relevant, draft conditions of consent relating to the Physical Infrastructure may, at the Council's discretion, be provided to the Developer for review and comment.
3 – Draft Infrastructure Agreement (not applicable to Prescribed Requirements)	<p>Where an Infrastructure Agreement is sought, the Council will prepare the draft Infrastructure Agreement and provide it to the Developer for review and comment.</p> <p>Once an agreement is reached, the Infrastructure Agreement must be fully executed and a copy will be returned to the Developer. The Council will retain the original document.</p> <p>The Developer will be responsible for 100% of the costs concerning the preparation and negotiation of the Infrastructure Agreement.</p>
4 – LMA (not applicable to Prescribed Requirements)	<p>If required as part of the Infrastructure Agreement, the Council will draft a LMA and provide to the Developer for review and comment. Once an agreement is reached, the LMA must be fully executed and a copy will be returned to the Developer once the LMA is noted against the relevant certificates of title(s) comprising the development site.</p> <p>The Developer will be responsible for 100% of the costs concerning the preparation, negotiation and notation of the LMA.</p>
4 - Security	If required as part of an Infrastructure Agreement, appropriate security in the form of an unconditional Bank Guarantee shall be provided to the reasonable satisfaction of the Council. At the Council's discretion, this security may later be able to be released in portions reflective of the staged delivery of Physical Infrastructure.

STEPS	METHOD OF DELIVERY
5 - DNF	The Decision Notification Form is issued with conditions referencing the Physical Infrastructure (where relevant).
6 – Bonding (only applicable to Prescribed Requirements)	<p>Should the Developer wish to bond elements of the Physical Infrastructure to be constructed (in order to defer construction until after the issue of the section 51 certificate under the Act), a request can be made to Council and any such request shall comprise the following:</p> <ul style="list-style-type: none"> • a written request by the Developer prescribing the Physical Infrastructure components to be bonded; • an estimated cost to undertake those Physical Infrastructure components (with accompanying evidence and individual costings of each component if the bond is to be released in stages); and • a timeframe for completion of those Physical Infrastructure components. <p>According to law, the Council reserves the right to refuse to enter into a Bonding Agreement. However in most instances the Council will be open to bonding.</p> <p>If the Council wishes to enter into a Bonding Agreement (as requested by the Developer), the Council will prepare a draft Bonding Agreement and forward it to the Developer for review and comment.</p> <p>Once an agreement is reached, a Bonding Agreement must be fully executed and the necessary security (in the form of an unconditional Bank Guarantee to the reasonable satisfaction of Council) must be provided to the Council. The Council will then return a copy of the Bonding Agreement to the Developer. The Council will retain the original document. This process should be complete prior to section 51 Clearance being granted.</p> <p>The Developer will be responsible for 100% of the costs concerning the preparation and negotiation of the Bonding Agreement.</p>
7 – Implementation	<p>The Developer shall use its best endeavours to ensure the development and Physical Infrastructure are delivered in accordance with the Development Approval, approved plans, conditions and any Infrastructure or Bonding Agreement.</p> <p>Should the Developer not act in accordance with the provisions of any Infrastructure or Bonding Agreement, dispute resolution clauses and enforcement provisions within the relevant Infrastructure or Bonding Agreements may be triggered.</p> <p>Should a development not be undertaken in accordance with the Development Approval, approved plans or conditions, the Council may take the appropriate enforcement action pursuant to the relevant provisions of the Act or equivalent updated legislation.</p>
8 - Monitoring	The Council will continually monitor the implementation of developments which have been approved and the provision of any relevant Physical Infrastructure.

COMMUNICATION

All communication with respect to Physical Infrastructure matters, as they relate to proposed development or development applications, shall be directed to the Council's Development and Regulation Business Unit at first instance.

DEFINITION

Act means the *Development Act 1993*.

Council means the Rural City of Murray Bridge.

Council's Standards means Council's *Development & Engineering Guidelines 2018* and Council's *Engineering Standards*, available at www.murraybridge.sa.gov.au/ and as updated from time to time.

Developer includes an applicant for a development application under the Act.

Infrastructure Agreement includes an infrastructure deed.

LMA means an agreement pursuant to section 57 or section 57A of the Act.

Physical Infrastructure means economic infrastructure required to support local communities including (but not limited to): roads; kerbing, guttering and verge provision and enhancement; driveway and road access; footpaths; street tree planting and landscaping; street lighting; stormwater infrastructure (pipes, swales, erosion protection measures, basins); telecommunications; water supply and wastewater; and electrical services.

Prescribed Requirements means the prescribed requirements for land division pursuant to Part 9 Division 2 of the *Development Regulations 2008*.

Social Infrastructure means facilities, places, spaces, programs services that improve the quality of life.