

Building permits and community infrastructure levies

This updates previous *Practice Note 2005-54* issued June 2005.

1. Summary

Community infrastructure levies are financial contributions made by landowners towards locally provided infrastructure required to meet the future needs of the community. Section 24 (5) of the Building Act 1993 (the Act) requires that before issuing a building permit, building surveyors must satisfy themselves that if a community infrastructure levy is payable, it has either been paid, or an agreement has been entered into with the municipal council to pay the levy at a later stage.

2. Background

The requirements of section 24 of the Act have made it more important than ever for building permit applicants to receive accurate, timely planning information from municipal councils.

Building practitioners are obliged to ensure that a development proposal complies with planning controls. In addition to building and planning permit consistency (see Practice Note 2006-44), section 24 also requires a building surveyor to refuse to issue a building permit if a community infrastructure levy has not been paid.

2.1 Infrastructure levies

The Planning and Environment Act 1987 distinguishes between two types of infrastructure which can be levied and collected through a development contributions plan — development and community infrastructure.

Development infrastructure levies are for items such as roads, drainage, land acquisition and essential family and children's facilities. These are generally collected from the developer or subdivider at the planning permit stage. Community infrastructure levies are for items such as community centres and recreational facilities which can only be collected at the time a building permit is applied for.

3. Determining whether a community infrastructure levy is payable

3.1 Check the planning scheme

Development contributions plans (DCPs) identify areas subject to community infrastructure levies and the amount payable in respect of development of the land. Approved DCPs form part of a planning scheme and are usually represented as development contributions plan overlays on maps and within the planning scheme itself. Whether or not a community infrastructure levy is payable will therefore depend on the provisions of the planning scheme and whether a development contributions plan overlay affects the lot.

3.2 Submit a property inquiry to the municipal council

A building surveyor may submit an inquiry to the relevant municipal council, requesting advice regarding whether a community infrastructure levy is payable in respect of the proposed building work and if so, how much. For council to answer this question accurately, an application will need to contain sufficient information to identify both the property and the nature and extent of the proposed building work. If you have your own information request form you should ensure that you include the following questions:

Is a community infrastructure levy payable for the building work/use?

Yes No

If yes, Amount Payable \$ _____.

If a community infrastructure levy is payable, has it been paid, or an agreement entered into to pay it?

Yes No

If yes, Receipt/Agreement No _____

3.3 Consult the relevant responsible authority

A town planning officer familiar with the planning scheme should be able to confirm whether a community infrastructure levy is payable. Again, the building surveyor needs to provide the officer with sufficient information to identify the property and the nature and extent of the proposed building work.

If a building surveyor relies on such advice, it is important to note:

- ▶ The officer's name.
- ▶ The officer's position.
- ▶ The date on which the advice was given.
- ▶ The details of the advice given, including any conditions on that advice.

3.4 Obtain independent professional advice

A building surveyor can seek advice from a person qualified and experienced in reading planning schemes — for example, a solicitor with experience in planning matters, a planning consultant, or another building surveyor with appropriate qualifications and experience.

3.5 Council response

In order to expedite the process municipal council town planning departments should respond to any request for information within 7 days of receiving an application.

4. Determining whether a community

infrastructure levy has been paid

If a community infrastructure levy is payable in respect of proposed building work, the building surveyor will need to ensure that the levy has either been paid, or an agreement has been made with the council to pay the levy at a later stage.

In determining whether the levy has been paid or an agreement entered into, the relevant building surveyor should obtain copies of the following:

- a) A receipt issued by the council for payment of the community infrastructure levy; OR
- b) A properly executed agreement between the landowner and the council to pay the community infrastructure levy, at a later stage, in respect of the proposed building work.

The building surveyor will also need to:

- a) check the amount specified in the receipt, or in the agreement; and
- b) confirm that the amount specified in the receipt or agreement equals the amount specified in the planning scheme.