
Development Servicing Plans 2022 – public exhibition

Responsible Officer: Group Manager Planning and Delivery (Andrew Logan)

Recommendation

That Council:

1. Endorses the draft Bulk Water Supply Development Servicing Plan attached to the report for public exhibition for the period 19 December 2022 to 2 February 2023.
2. Write to the constituent councils advising of the proposed changes to the Bulk Water Supply developer charge and requesting the Constituent Councils consider providing this notification of change to existing unpaid development applicants.
3. Endorses the draft Retail Water Supply Development Servicing Plan attached to the report for public exhibition for the period 19 December 2022 to 2 February 2023.

Background

New and increasing density of development places additional demands on the water supply network requiring the development of new water sources and upgrades and augmentations of the existing water treatment and distribution assets to meet this demand.

Section 64 of the *Local Government Act 1993* confers on a council, including a county council, the power under section 306 of the *Water Management Act 2000* as the relevant water supply authority to require a developer as a precondition to the grant of a certificate of compliance for the development:

“to pay a specified amount to the water supply authority by way of contribution towards the cost of such water management works as are specified in the notice, being existing works or projected works, or both”

Developer charges are up-front charges levied to recover part of the infrastructure costs incurred in servicing new developments or additions/changes to existing developments.

To calculate the amount of the developer charges payable for each development, NSW Council's prepare a Development Servicing Plan (DSP), generally based on the NSW Department of Planning and Environment (DPE) - Water Developer Charges Guidelines (Guidelines) applicable at the time. The calculation of the developer charge considers the value of existing assets with capacity to service the new development, the forecast cost of new assets and forecast growth in connections.

Rous County Council's ('Rous') DSP:

- Identifies the connection growth projections for our region and the required levels of service and assets required to service the forecast development;
- Calculates the water supply developer charges to be levied on development areas based on guidance documents provided by the NSW State Government;
- Contains key administrative matters relating to calculation, collection and exemption from developer charges.

Rous's existing DSP for Bulk Water Supply, adopted in 2016, was prepared in accordance with the 2012 Guidelines applicable at the time. Since that time there have been significant changes in Rous's forward capital works program relating primarily to the Future Water Program. It is now prudent to update the DSP for Bulk Water Supply to ensure appropriate charges are being levied on development to recover part of the forecast infrastructure costs.

Bulk Water Development Servicing Plan

Rous engaged Hydrosphere Consulting to assist in the preparation of the updated DSP for Bulk Water Supply. The updated DSP document was generally based on the 2016 Guidelines.

A significant difference between the 2012 and 2016 Guidelines is the exclusion of assets older than 30 years in the developer charge calculation. Staff consider that Rous's existing assets older than 30 years, that are still in service, have capacity for growth into the current DSP period, and their inclusion in the calculation of the developer charge is consistent with the intent of the Guidelines. This position was instructed to the consultant and the DSP prepared accordingly.

Approval for the inclusion of these existing assets in the developer charge calculation was requested from DPE Water, however their position was that any assets older than 30 years should not be included without documentation that "*when the asset was constructed it was planned to provide capacity for growth*". This documentation is not available, however recent hydraulic modelling of our bulk water supply network has shown that the existing asset base can meet the current water demand and have additional capacity to meet future demand within this DSP period.

The proposed Bulk Water Supply developer charge for 2022/23 is \$9,231/ET (ET = Equivalent Tenement = water use from a single detached residential dwelling). As a comparison, the existing Bulk Water Supply developer charge for 2022/23 is \$9,256/ET.

The Bulk Water Supply developer charges are applicable to all development connected directly to the Rous water supply system or indirectly on the Constituent Councils water supply networks serviced from the Rous bulk water supply system.

Charges are paid direct to Rous for development connected direct to the Rous water supply system. For development on the Constituent Council water supply systems, bulk water developer charges are collected through the Constituent Councils, and remitted to Rous. This is a service provided by the Constituent Councils with a fee per DA charged in accordance with the Service Level Agreements.

The Draft Bulk Water Supply Development Servicing Plan is included as Attachment 1 to this report.

Retail Water Development Servicing Plan

During the Bulk Water Supply DSP development process, it was also identified that Rous did not have a DSP for Retail Water Supply assets. Retail water supply assets are those assets that only supply water to Rous's retail water customers.

Extensions of the retail water supply network (i.e., into or within new subdivisions) are fully funded by the developer. However, there is currently no income source for lead-in retail water supply infrastructure including distribution pipes and reservoirs which will be required as the number of connections grows and water demand increases.

A DSP has been prepared for the Retail Water Supply. The proposed Retail Water Supply developer charge for 2022/23, as calculated in accordance with the Guidelines, is \$356/ET.

Charges levied under a DSP for Retail Water Supply will provide part of the required funding for the new infrastructure required to meet future water demand.

The Retail Water Supply developer charges are applicable only to development connected directly to the Rous water supply system.

The Draft Retail Water Supply Development Servicing Plan (DSP) is included as Attachment 2 to this report.

Both DSPs were audited by an NSW DPE Water approved third party auditor with the audit summary and findings included as Attachment 3 to this report. The auditor noted a single non-conformance being the inclusion of assets older than 30 years at the commencement of the DSP document in the developer charge calculation.

Governance

• Integrated Planning and Reporting

The implementation of an updated Development Servicing Plan (DSP) for Bulk Water Supply is a key priority in Rous's Operational Plan Activity 1.4.2 (iii) to be delivered in 2022/23 to strengthen Rous's revenue streams.

• Finance

Developer charges account for approximately 17% of Rous's income in the Bulk water fund, second only to contributions from the Constituent Councils.

The forecast income from Bulk Water Supply developer charges over the 10 year Long Term Financial Plan (LTFP) is \$49.5M based on current developer charges (\$9,256/ET), forecast connection growth and forecast indexation.

The proposed Bulk Water Supply developer charge (\$9,231/ET) is slightly lower than the current charge and results in a slightly reduced forecast income over the 10 year Long Term Financial Plan (LTFP) of \$49.2M. This will not impact the proposed price path increases or loan requirements.

For comparison purposes, Hydrosphere Consulting was requested to calculate the developer charge based on full conformance with the 2016 Guidelines (meaning exclusion of assets older than 30 years).

The calculated developer charge under this scenario was \$3,736/ET which, if adopted would result in a significantly reduced forecast income over the 10 year Long Term Financial Plan (LTFP) of \$29.4M. To continue to fund the required infrastructure to service the forecast growth would require:

- Significant increases to price path with multiple years of 10% and 15% increases (compared to current increases of 6% and 7%) and,
- Increased loans from \$165m to \$200m+ resulting in additional \$15m+ additional Principal and Interest payments over next 10 years

In effect, existing customers would be paying a larger proportion of the cost for new development. This is considered inequitable, and it is recommended that the draft Bulk Water Supply DSP as presented with the proposed charge of \$9,231/ET (2022/23) be approved for public exhibition.

Regarding the draft Retail Water Supply developer charge (\$356/ET), this will provide an additional income stream for the Retail fund to contribute to the cost of Rous retail infrastructure upgrades and augmentations to service new development. Based on historical development growth figures of approximately 25-40/ET/annum on Rous's retail water supply network, the forecast annual income is \$8,900-\$14,240/annum.

The cost to prepare, audit and adopt a Retail Water Supply DSP every 5-6 years is approximately \$1,000/annum (annualized).

The cost to administer the Retail Water Supply DSP would be negligible as assessments, collection of contributions and issuance of compliance certificates are already being undertaken for the Bulk Water Supply DSP and these charges would be collected concurrently.

It is recommended that the draft Retail Water Supply DSP as presented with the proposed charge of \$356/ET (2022/23) be approved for public exhibition.

- **Legal**

External legal advice was obtained in relation to the extent to which Rous must consider the NSW DPE Water 2016 Developer Charges Guidelines in the preparation of a Developer Servicing Plan. This advice can be summarised as follows:

- Adopting a DSP not strictly in accordance with the NSW DPE Water 2016 Developer Charges Guidelines (Guidelines) will not contravene the law
- The Guidelines must only be 'considered' when calculating the developer charges
- Inclusion of asset more than 30 years old is considered reasonable where the inclusion of the assets meets the intention of the developer charge calculation

Adoption of the proposed Bulk Water Supply Charge (\$9,231/ET) is considered to be low risk compared to the impacts on future income and the required increase in the price of water to existing customers if Rous were to adopt a lower developer charge.

Consultation

The draft DSPs were prepared in consultation with an internal working group comprising Rous finance and development planning staff.

Development Servicing Plans – Administration Matters

This section provides a summary of Rous's position on various matters relating to the administration of the DSPs. Some of these items are captured within the DSP documents, and for the remainder, this report once resolved, will serve as Rous's policy position. These matters will be incorporated into a policy to be presented to the February 2023 council meeting for adoption with the final DSPs.

- **Applicability and Proposed Commencement Date**

The proposed developer charges will be applicable to all new development, re-development (i.e. change of use) and existing development applications where applicable developer charges are not yet paid. This includes the connection of land with existing residences and/or non-residential buildings and the internal developments and community asset developments of the Constituent Councils if developer charges have not been paid previously.

The proposed commencement date of both the Bulk Water Supply DSP and Retail Water Supply DSP is 1 July 2023. This will allow time to register the DSPs with NSW DPE Water, update Rous's LTFP and provide notice to the Constituent Councils of the proposed charges.

The proposed charges are in 2022/23 dollars and will need to be indexed to be consistent with other fees and charges for 2023/24.

It is recommended Rous write to the Constituent Councils advising of the proposed changes to the Bulk Water Supply developer charge and requesting the Constituent Councils consider providing this notification of change to existing unpaid development applicants.

- **Determining number of ETs**

Rous will assess the demand for service in terms of equivalent tenements (ET) in accordance with the Section 64 Determinations of Equivalent Tenements Guidelines (NSW Water Directorate, 2009) or other related policy or methodology approved by Rous.

In the assessment of ETs, allowance will be made for existing entitlements based on available records or calculated from existing approved development.

For non-residential or non-standard developments where the expected or actual water use information is available, the NSW DPE Water 2016 Developer Charges Guidelines require the numbers of ETs to be calculated using local average annual residential water supplied per connected property as reported in the National Performance Framework annual performance report. For Rous this figure is 181kL/ET/annum.

Where a non-residential development is approved, and developer charges levied on the basis of estimated water usage, Rous reserve the right to monitor ongoing water use and levy additional charges where actual water usage consistently exceeds approved water usage.

The same methodology is to be applied by the Constituent Councils in assessing and collecting Rous bulk water supply developer charges on our behalf.

- **Deferred Payment Options**

In 2019 Rous resolved to reject any further consideration of requests for payment plans for developer charges, until such time as a subsequent report on policy options for deferred payment arrangements was received and considered by the Rous. Resolution 13/19 is reproduced below.

RESOLVED [13/19] (*Mustow/Cadwallader*) that Council:

1. *Receive and note the report.*
2. *Approve the proposal for deferred payment arrangements as set out in the report.*
3. *Receive a subsequent report on policy options for deferred payment arrangements having regard to the Development Servicing Plan for Bulk Water Supply and the policy positions of the constituent councils; and*
4. *Reject any further consideration of similar requests until Point 3. is complete and a policy position is determined.*

An internal staff working group reviewed potential options for deferred payment plans and the policy positions of the Constituent Councils. In general, the Constituent Councils offer deferred payment plans on application and subject to merit based assessment. Generally, payment plans are offered to non-residential developments only, to enable new businesses with large upfront costs to establish.

The recommended position for Rous is to permit deferred payment plans for non-residential developments with forecast or actual demand >2ET, at the discretion of the General Manager. Deferred payment plans are to be offered for a maximum term of 12 months and require provision of a security bond (generally in the form of a bank guarantee) equal to the developer charge payable. Only Rous has the authority to approve deferred payment arrangements for Rous developer contributions including those assessed and collected by the Constituent Councils.

- **Waiving Charges for Non-Profit Organisations**

The existing DSP has provision for Rous to consider requests to waive developer charges from charitable and non-profit organisations considered by Rous to be making a significant and positive contribution to the community and unable to recover the charge from the end user.

It is proposed to retain this provision with a minor clarification that charges will be applicable for any commercial operation that is part of the proposed development.

- **Auditing of developer charges collection mechanisms**

The majority of Rous developer charges are levied and collected by the Constituent Councils. There is currently limited oversight and review of the collection mechanism being undertaken by Rous for what is a significant source of income.

There are measures within the previous and current Service Level Agreements (SLAs) with the Constituent Councils that enable Rous to confirm or evaluate that all charges payable have been paid (refer SLA Clause A1.4.3).

Staff will develop appropriate evaluation and checking procedures and work with their counterparts at the Constituent Councils to ensure the developer charge collection process is being undertaken without errors and charges payable to Rous have been paid and remitted.

Rous are also working with the NSW DPE to utilise the state government's Planning Portal to obtain and provide information on relevant development applications.

- **Pathway to Adoption of the Development Servicing Plans**

The pathway to adoption of a DSP is detailed in the NSW DPE Water 2016 Developer Charges Guidelines as follows:

- At least 10 working days before the start of the exhibition period for the Draft DSP documents, Rous must inform the Urban Development Institute of Australia, and the Housing Industry Association. This has already been actioned.
- The draft DSPs, attached to this report, are required to be publicly exhibited for a minimum of 30 working days. The draft DSPs will be uploaded to Rous's website on or before 19 December 2022. A letter will also be sent to the Constituent Councils advising them of the draft DSPs public exhibition period.
- Final DSPs incorporating any comments received during the public exhibition period are proposed to be tabled to the February 2023 Council meeting for adoption with the updated charge to be implemented from 1 July 2023 (the current proposed charges detailed in this report are for 2022/23 and will be required to be indexed accordingly).
- Registration of the DSPs with NSW DPE Water.

Conclusion

The adoption of the revised Bulk Water Supply DSP and proposed Retail Water Supply DSP will ensure appropriate charges are being levied on development to recover part of the costs of forecast infrastructure needs to meet the increased demand.

It is recommended Rous County Council endorse both the draft Bulk Water Supply DSP and draft Retail Water Supply DSP for public exhibition. A further report will be prepared for Rous County Council for February 2023 presenting any submissions received and final DSPs for adoption.

Attachments

1. Draft Bulk Water Supply Development Servicing Plan (DSP)
2. Draft Retail Water Supply Development Servicing Plan (DSP)
3. DSP Auditors Report