



Use of Development Contributions by Local Government



VICTORIA

Victorian
Auditor-General

Use of Development Contributions by Local Government

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The Hon. Robert Smith MLC
President
Legislative Council
Parliament House
Melbourne

The Hon. Jenny Lindell MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my performance report on *Use of Development Contributions by Local Government*.

Yours faithfully



D D R PEARSON
Auditor-General

9 December 2009

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Audit summary

Background

Development contributions are payments or in-kind works provided by developers towards the supply of infrastructure to support new land developments. They are a critical component of Victoria's broader planning system, and are collected mainly by councils using Development Contributions Plans (DCPs), voluntary agreements and planning and building permit processes.

In 2008–09, the value of contributions collected across all Victorian councils was approximately \$716 million, including cash payments, in-kind works, services or facilities, and gifted assets.

Councils are responsible for effectively managing and using the development contributions they collect. The Department of Planning and Community Development (DPCD) manages the regulatory framework for land use and development on behalf of the Minister for Planning, provides guidance to the sector, and is responsible for monitoring the performance of Victoria's planning system.

The Growth Areas Authority (GAA) was established in 2006 to guide sustainable development in Melbourne's five growth areas. It is currently working with DPCD to reform the way development contributions are levied in these areas. These reforms were announced in December 2008 as part of the government's *Melbourne @ 5 million* strategy, and will include new arrangements for collecting state and local infrastructure contributions.

The audit

The objective of the audit was to assess the effectiveness and efficiency of councils' management of development contributions; whether they had effective arrangements for managing, monitoring and reporting on the collection and use of development contributions; and whether they effectively used development contributions to deliver planned infrastructure.

The audit examined the nature and use of development contributions levied by the following councils up to 2008–09:

- City of Port Phillip
- Surf Coast Shire Council
- Wyndham City Council.

The audit also examined the roles of DPCD and the GAA in supporting and overseeing how councils collect and use their development contributions.

Overall conclusion

There is little assurance that the development contributions system is operating as intended across local government. A lack of effective oversight and transparent reporting remain, despite similar issues being identified in 2005. Greater accountability for what has been delivered is needed, as is a better understanding of the future obligations that arise from the contributions received.

Findings

Weaknesses in the controls and associated management practices of selected councils indicate there is insufficient assurance they have collected all contributions owed, that they have been used effectively, and that councils have met all their statutory obligations.

Each council had appropriately used development contributions to deliver infrastructure they had committed to. None, however, had a complete record that accurately linked all development contributions collected with those expended, and the associated infrastructure delivered against that planned. This meant that they were unable to demonstrate that all the funds contributed by developers had been used effectively, or that all in-kind works provided met requisite standards.

Oversight of development contributions in councils was limited. Reports to senior management and councillors focused mainly on the status of fund balances, and lacked sufficient detail to provide assurance that contributions were being effectively managed.

Similarly, public reporting by councils was insufficient to demonstrate to the community that contributions were being spent for the purposes intended, and that the associated infrastructure was being delivered as planned. While all councils identified aggregate development contributions revenue in their annual reports, it was not always possible to clearly distinguish this from gifted assets and, therefore, accurately compare councils.

Wyndham had taken the positive step of reporting on the infrastructure it had delivered using contributions in its 2008–09 annual report. Port Phillip and Surf Coast, however, did not provide similar details in their annual reports.

The absence of state-wide data on the overall performance of the system, including the adequacy of the underlying statutory framework and its application by councils, was previously raised as an issue by the Victorian Competition and Efficiency Commission (VCEC) in 2005. Little progress, however, has been made since then to address these issues.

DPCD, in conjunction with the sector, needs to further develop state-wide performance monitoring arrangements to improve the level of transparency and accountability over the collection and use of development contributions, to provide assurance the system is operating effectively, and to maintain public confidence in the wider planning system.

Recent reforms have sought to improve the operation of the system, but there is no evaluative data upon which to assess the impact of these initiatives, or the performance of councils in managing development contributions. The absence of this information means that there is no feedback on the operation of the system. This is needed to inform appropriate future actions.

Recommendations

Number	Recommendation	Page
Council management of development contributions		
1.	Councils should review and, where necessary, enhance the effectiveness of controls to make sure that development contributions due are collected.	12
2.	Councils should assure that contributions have been used for their intended purpose by: <ul style="list-style-type: none"> clearly identifying the standards and delivery time frames for infrastructure commitments contained within voluntary agreements and Development Contributions Plans transparently identifying within council budgets and capital works programs the infrastructure commitments arising from all development contributions accurately and regularly reconciling contributions collected and expended, including delivery of associated infrastructure against that planned. 	12
3.	Councils should strengthen local governance arrangements for development contributions by: <ul style="list-style-type: none"> timely reporting to senior management on the collection and use of development contributions and delivery of infrastructure commitments against that planned systematically identifying and managing all risks to the delivery of infrastructure associated with development contributions assigning management responsibilities for the coordination and oversight of the management of development contributions. 	12

Recommendations – *continued*

Number	Recommendation	Page
Council management of development contributions – <i>continued</i>		
4.	Councils should clearly report on the collection and use of development contributions revenue in their annual reports, as well as report on the associated infrastructure delivered against that planned.	12
Central monitoring and oversight		
5.	<p>The Department of Planning and Community Development in consultation with the Growth Areas Authority and stakeholders should develop the performance measurement system and the broader planning system to include:</p> <ul style="list-style-type: none"> • measures for assessing the delivery of state and local planned infrastructure outcomes • arrangements for assessing the success and uptake of reforms to the development contributions system • information on the extent to which councils have fulfilled their statutory obligation in relation to development contributions in line with the 2005 VCEC recommendation • arrangements for monitoring and reporting on the effectiveness and efficiency of statutory processes underpinning the system. 	18



Audit Act 1994 section 16— submissions and comments

Introduction

In accordance with section 16(3) of the *Audit Act 1994* a copy of this report, or relevant extracts from the report, was provided to the Department of Planning and Community Development, Growth Areas Authority, Surf Coast Shire Council, Wyndham City Council, and City of Port Phillip with a request for comments or submissions.

The comments and submissions provided are not subject to audit nor the evidentiary standards required to reach an audit conclusion. Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Submissions and comments received

RESPONSE provided by the Secretary, Department of Planning and Community Development

The Department has recognised that monitoring and reporting of Victoria's planning system can be improved and has in progress a number of initiatives to deliver more effective monitoring arrangements for Victoria's land use planning system. These initiatives include:

- *The review Modernising the Planning and Environment Act will include a proposal to require all councils to submit a report annually on specified planning activities so that there is an effective monitoring and reporting framework. Performance in the management of development contributions will be able to form part of that report.*
- *The continuing implementation of the e-Planning Roadmap will provide greater capability for submission and transmission of planning forms and information in electronic form. The Planning Permit Activity Report (PPAR) provides automated reporting on planning permits and the Permit Applications Online project, which is currently under development and includes a compatible reporting capability with PPAR.*
- *The Planning Process Improvement Project that has been established in partnership with the Municipal Association of Victoria will map the processes for both planning permits and planning scheme amendments and examine ways to improve the administration and performance monitoring of these processes.*

RESPONSE provided by the Secretary, Department of Planning and Community Development – continued

- *The Essential Services Commission has been given a Terms of Reference to develop an annual performance reporting regime for local government over the next eight months. This reporting regime will incorporate performance measures on key planning services and or functions.*

The proposed new requirement to introduce an annual reporting requirement on planning activity into the Planning and Environment Act 1987 will in particular be able to provide a framework for reporting on the management of local development contributions.

RESPONSE provided by Wyndham City Council

The audit is welcomed by Wyndham City Council and the findings are viewed as an opportunity for improvement in the management of developer contributions. Council views such audits as opportunities for continuous improvement of service delivery.

In relation to the recommendations of the report, Council supports those relevant to Wyndham and is confident many of the recommendations are already being undertaken or can be readily implemented at Wyndham.

As a result of the audit report, a number of enhancements to Council's systems and procedures are being considered that will ensure ongoing compliance with the legislation. This includes improvements being made to the management of risks associated with development contributions, improving the oversight mechanisms relating to the collection of funds and reviewing the internal and external reporting practices.

In reference to Recommendation 3, 'systematically identifying and managing all risks to the delivery of infrastructure associated with development contributions'. It should be noted that in the situation where developers provide in-kind works in lieu of contributions that the risk is shared appropriately between the developer and Council, thus not all the risk can be attributed totally to Council.

Response provided by the Chief Executive Officer, Surfcoast Shire

The Surf Coast Shire welcomes the Victorian Auditor General's Report on the use of development contributions by Local Government. Surf Coast Shire supports the recommendations within the report. The report will provide a basis for the improvement and strengthening of the complex development contributions process and provide some guidance to Councils and State Government agencies on how to manage the process better.

RESPONSE provided by Acting Chief Executive Officer, City of Port Phillip

The City of Port Phillip acknowledges the findings of the report and welcomes the recommendations. As a result of the Audit process, I am pleased to advise that the Council has initiated a number of actions to directly respond to the matters raised in the review and is confident that Council will manage Development Contributions appropriately in the future.

The actions include, but are not limited to:

- *Establishing an internal staff working group to conduct a thorough process review and implement improvements to the management of development contributions in line with the recommendations of the report;*
- *Conducting a detailed review and reconciliation of all files relating to development contributions levied under the Development Contributions Plan;*
- *A commitment to reviewing the Port Melbourne Developer Contributions Plan in 2010/2011;*
- *Designating management responsibility for the coordination and oversight of the management of development contributions and associated processes;*
- *Developing a process to ensure reporting on Development Contributions is appropriately incorporated in the City of Port Phillip Annual Report.*



1 Background

1.1 Introduction

Development contributions are payments or in-kind works provided by developers towards the supply of infrastructure to support new land developments.

Development contributions are mainly used to provide:

- development infrastructure—such as roads, bicycle paths, public transport infrastructure, drainage and public open space
- community infrastructure—such as buildings and facilities for community or social purposes.

In 2008–09 the value of contributions collected across all Victorian councils was approximately \$716 million, including cash payments, in-kind works, services or facilities, and gifted assets.

1.1.1 Legislative framework

There are four Acts that govern the development contributions system—the *Planning and Environment Act 1987*, the *Subdivision Act 1988*, the *Building Act 1993*, and the *Local Government Act 1989*.

Planning and Environment Act 1987

The *Planning and Environment Act 1987* (the Act) is the main statute covering development contributions. Under the Act, councils can collect contributions using development contributions plans, voluntary agreements and the planning and building permit processes.

Development contributions plans (DCPs) are used mainly by local councils, and can be incorporated into the local planning scheme following approval by the Minister for Planning. Under the Act, approved DCPs must set out what infrastructure is to be developed for a defined area, the time frame in which it will be provided and the specific levies that developers will be required to pay. The Act also requires councils to maintain proper accounts of DCP levies paid in accordance with the *Local Government Act 1989*, to use the funds for the purposes intended, and to refund unspent levies or seek ministerial approval to use them for another purpose. Currently, 15 of the 79 local councils use DCPs in their planning schemes.

Section 173 of the Act provides the mechanism for formalising a **voluntary agreement** between the council, landowners and other parties on matters relating to the use and development of land. The agreement can also include obligations for development contributions, and set out the time frames and responsibilities for the provision of associated infrastructure. Section 173 agreements must be lodged with the Minister for Planning and are enforceable through the Victorian Civil and Administrative Tribunal.

To collect development infrastructure levies required under DCPs councils must use conditions in **planning permits**. Community infrastructure levies required by DCPs are similarly collected through the **building permit** process. They can also be used to collect contributions required under existing Section 173 agreements, and for other works considered necessary as a result of the grant of a permit.

Subdivision Act 1988

The *Subdivision Act 1988* authorises councils to collect contributions from developers for developing public open space infrastructure.

When a site is being subdivided into two or more lots, councils can levy developers for a land or cash contribution of up to 5 per cent of the total area or value of the land. These contributions are collected via conditions imposed on subdivision permits. Alternatively, a schedule may be incorporated into planning schemes to specify a different rate of contribution.

Building Act 1993

The *Building Act 1993* requires that before issuing a building permit, building surveyors must satisfy themselves that if a community infrastructure levy is payable under a DCP, it has either been paid, or an agreement is made to pay the levy at a later stage.

Local Government Act 1989

The *Local Government Act 1989* requires councils to implement sound financial management, including management of the financial risks associated with development contributions. It also directs councils to collect all the funds that are due to them, provide quarterly financial reporting, and have adequate internal control systems in place.

1.1.2 Roles and responsibilities

The following parties are involved in the administration and management of development contributions:

- The **Minister for Planning** has overall responsibility for the state's planning legislation and framework, and must approve all amendments to planning schemes including those introducing a DCP.

- The **Department of Planning and Community Development (DPCD)** manages the regulatory framework for land use and development, and provides guidance to the sector on planning issues. It also supports and advises the minister on planning scheme amendments.
- The **Growth Areas Authority (GAA)** was established in 2006 to guide sustainable development in Melbourne's designated growth areas. GAA works in partnership with the six growth area councils, developers and state agencies and its aims include ensuring that development and infrastructure occurs in a coordinated and timely manner.
- **Local councils** are responsible for managing infrastructure levies they collect from DCPs, voluntary agreements and permits in accordance with the legislative framework outlined above.

1.1.3 Evolution and performance of the development contribution system

Before 1995, development contributions were levied through permit conditions. Provisions for collecting development contributions through DCPs were formally introduced into the Act in 1995, and were expected to become the main mechanism for levying development contributions.

The Act was further amended in 2004 with the objective of enhancing the fairness and predictability of the development contributions system for both developers and councils. This introduced clearer processes for collecting and using levies linked to DCPs.

The GAA is currently working on reforms that will change the way development contributions are levied in growth areas. These reforms were announced in December 2008 as part of the government's *Melbourne @ 5 million* strategy and will see two new charges introduced into growth areas:

- The **Growth Areas Infrastructure Contribution** will be a standard charge administered by the GAA for use in developing state infrastructure within growth areas. It is expected to come into effect through amendment to the *Planning and Environment Act 1987* in 2010.
- The **Growth Area Precinct Infrastructure Contribution** (also known as the Growth Areas Council Infrastructure Contribution) will relate to local infrastructure and will be administered by local councils. This charge is in the early stages of development, but is intended to address issues of poor transparency and flexibility in the current system, and is expected to be considered by government in 2010.

1.2 Audit of the use of development contributions

1.2.1 Audit objectives

The objective of the audit was to assess the effectiveness and efficiency of councils' management of development contributions.

Specifically, the audit examined whether selected councils had:

- effective arrangements to manage, monitor and report on how they collect and use development contributions
- effectively used development contributions to deliver planned infrastructure.

1.2.2 Scope and methodology

The audit examined the nature and use of development contributions levied by the following councils up to 2008–09:

- City of Port Phillip
- Surf Coast Shire Council
- Wyndham City Council.

The audit also examined the roles of DPCD and GAA in supporting and overseeing how councils collect and use their development contributions.

The audit was performed in accordance with the Australian Auditing Standards applicable to performance audits.

1.3 Cost of the audit

The cost of the audit was \$290 000. This includes staff time, overheads and printing.

2 Council management of development contributions

At a glance

A sound framework for managing development contributions will assure that the funds and/or works owed by developers are appropriately delivered and used to meet infrastructure needs.

Findings

- Controls over the collection of development contributions provided insufficient assurance that all monies had been received.
- Weaknesses in monitoring and reporting meant that councils were unable to demonstrate that all funds contributed by developers had been used effectively.
- Arrangements for identifying and managing risks to infrastructure delivery associated with development contributions need to be strengthened.
- Improved public reporting on the collection and use of development contributions by councils is needed to enhance transparency and accountability.

Recommendations

Councils should:

- strengthen controls over the collection of development contributions
- establish mechanisms for assuring that contributions have been used for their intended purpose
- strengthen local governance arrangements for development contributions
- report on the collection and use of development contributions revenue in their annual reports.

2.1 Introduction

Development contributions can enable the timely delivery of planned infrastructure to local communities. They are an important funding source that offsets the significant costs of infrastructure provision and reduces the financial burden on rate payers and councils. A sound framework for managing development contributions is important to assure that the funds and/or works owed by developers to council are appropriately delivered and used to meet infrastructure needs.

2.1.1 Snapshot of audited councils

Figure 2A provides a brief overview of each of the three councils we examined.

Figure 2A
Overview of audited councils

The **City of Port Phillip** is an inner city municipality with an area of 21 km² and a resident population of nearly 92 000. Most development contributions are levied as open space contributions under the *Subdivision Act 1988*, and are imposed as conditions on planning permits. The council has one development contributions plan (DCP), which was incorporated into the planning scheme in 1999 and one voluntary agreement to levy development contributions, which was agreed in 2005. In 2008–09 council collected a total of \$4.1 million in development contributions comprising \$3.6 million from open space levies, around \$388 000 from voluntary agreements, and approximately \$157 000 in contributions levied under the DCP.

Surf Coast Shire covers an area of 1 552 km² with an estimated resident population of around 23 500. Surf Coast primarily uses voluntary agreements to levy developer contributions, with 27 currently in place. It also levies open space contributions through permit conditions. In 2008–09 council collected a total of \$810 000 in development contributions comprising around \$148 050 from open space levies and approximately \$662 194 from voluntary agreements.

Wyndham City Council is an outer metropolitan growth area municipality with an area of 542 km² and an estimated resident population of around 130 000. Development contributions are mostly levied through voluntary agreements, with 63 agreements currently in place. Wyndham incorporated one DCP into the planning scheme in 2000 and added a further six over 2007 and 2008. In 2008–09 council collected a total of \$30.4 million in development contributions comprising \$1.8 million from open space levies and around \$28.6 million from voluntary agreements.

Source: Victorian Auditor-General's Office.

To assess the management framework in each council, we examined whether:

- local practices optimise the collection and use of development contributions
- executive oversight is adequate
- public reporting is comprehensive and adequately discharges accountability obligations.

2.2 Optimising collection and use of contributions

2.2.1 Conclusion

Each council had controls for collecting development contributions, but there was insufficient evidence to assure that they were effective, and that all monies due from developers had been collected.

Councils also could not demonstrate they had effectively used all of the development contributions they had collected.

2.2.2 Collecting and recording all contributions due

The *Local Government Act 1989* requires a council to ensure that all monies payable to it are properly collected. However, councils could not demonstrate this had occurred for levies imposed across all collection mechanisms, including voluntary agreements, development contributions plans (DCPs), and planning and building permits.

The main control councils used was to withhold issuing developers with a statement of compliance until all levies associated with subdivision developments had been paid. The statement of compliance is issued by a council once it is satisfied a developer has met their statutory obligations in relation to public works associated with subdivision developments. This control covered most of the contributions collected by each of the three councils.

Other controls councils used for collecting contributions not associated with subdivision developments included:

- applying and enforcing conditions on planning permits
- linking obligations for development contributions to accounts receivable systems.

These controls, however, were less formalised than the statement of compliance and relied mainly on the vigilance of staff. None of the councils had developed procedures for systematically checking the effectiveness of all of their controls. As a result, there was little assurance that the controls were effective, and that all contributions owed to each council had been received.

Wyndham had taken the positive step of developing procedures for reconciling levies paid with those owed under its voluntary agreements. However, gaps and inconsistencies in underlying data meant that these procedures could not always be relied upon.

Once collected, councils maintained proper accounts for development contributions receipts. Contributions revenue was allocated to separate reserve accounts that clearly differentiated it from other funding sources.

2.2.3 Using contributions appropriately

Each council had appropriately used some development contributions to deliver infrastructure they had committed to in their DCPs and voluntary agreements.

However, none had a complete record that accurately linked all development contributions collected with those expended, and the associated infrastructure delivered against that planned. This meant that they were unable to demonstrate that all the funds contributed by developers had been used effectively, or that all in-kind works provided met requisite standards. This is because:

- the standards and delivery time frames or triggers for infrastructure included in most voluntary agreements and some DCPs were not clearly documented
- council budgets and capital works programs did not show all the infrastructure commitments arising from all DCPs, voluntary agreements and open space levies, and the amount of development contributions revenue allocated to their delivery
- internal tracking and monitoring practices did not accurately reconcile all contributions collected and expended, or the delivery of associated infrastructure against that planned.

2.3 Effectiveness of management oversight

2.3.1 Conclusion

Oversight of development contributions' systems was inadequate in most councils. None of the councils examined had specifically reviewed the effectiveness of all their mechanisms for collecting contributions. Further, in most cases, reports to senior management and councillors lacked sufficient detail to provide assurance that contributions were being effectively managed.

2.3.2 Internal management arrangements

Management of development contributions at Port Phillip and Surf Coast was decentralised and relied heavily on the cooperation of different departments across council to administer the system. The approaches employed by each council varied, were largely informal, and were generally inadequate to assure that all contributions owed had been received, and that they had been used effectively.

Wyndham was the only council to have a dedicated officer responsible for monitoring and coordinating the local development contributions system. Procedures for levying and collecting contributions at this council were subject to quality assurance, annual scrutiny by internal audit and were therefore comparatively more reliable.

2.3.3 Monitoring and review

Regular monitoring and reporting to senior management on the performance of the development contributions system is important for identifying risks and addressing emerging issues impacting on infrastructure delivery. To do this effectively, councils need to plan, monitor and report on the delivery of infrastructure funded from development contributions.

Planning the delivery of infrastructure

All councils had identified development contributions to some extent within their annual budgets and capital works plans, but this practice was neither consistent nor comprehensive.

At Port Phillip, open space contributions levied under the *Subdivision Act 1988* were clearly identified in the budget and capital works program, whereas those levied under voluntary agreements and DCPs were not. Surf Coast's budget and capital works program also clearly identified open space levies, including levies associated with its DCP, but not from its voluntary agreements. Wyndham's budget and capital works program, on the other hand, did not clearly identify open space levies, or clearly distinguish DCP levies from those collected under voluntary agreements. Therefore, it was not possible to determine how councils had planned to use all the contributions they had collected.

Monitoring and reporting

The *Planning and Environment Act 1987* requires that all councils review their planning schemes every four years, including those that contain DCPs. The development contributions guidelines also advocate annual monitoring of DCPs to track levies collected and spent, the need for additional funding when funds collected through the DCP are insufficient to provide an infrastructure project, and the actual versus planned cost of DCP infrastructure projects.

Despite this, Wyndham and Port Phillip had never reviewed their DCPs. There was also no evidence that any of the three councils had assessed the adequacy of their voluntary agreements and permit processes for collecting contributions owed and delivering the required infrastructure.

All councils provided quarterly financial reports to senior management and councillors as required by the *Local Government Act 1989*, but in Port Phillip and Surf Coast, this was essentially limited to reporting on contribution fund balances, with no detailed reconciliation of contributions revenue, expenditure and infrastructure delivery against that planned.

Reports recently introduced at Wyndham included useful data on the progress of major capital works funded through development contributions, reasons for variances and details of emerging issues. These reports were informative, however, should be further improved by including reconciliations of the amount of contributions collected against that planned.

2.3.4 Managing risks to infrastructure delivery

The *Local Government Act 1989* requires councils to manage their financial risks. Councils need to systematically identify and manage all risks associated with development contributions so they can respond to issues as they arise and minimise delays to infrastructure provision.

None of the councils examined systematically identified and managed financial risks associated with development contributions. However, Wyndham advised that it had recently identified such risks, but had not yet systematically integrated them into its risk management plans. It was also the only council to specifically review its development contributions system as part of its internal audit program.

While there was a need to improve arrangements for managing risks associated with development contributions across each council, both Wyndham and Surf Coast had taken steps to assess and manage the funding gap for their future infrastructure commitments.

Wyndham identified a significant funding shortfall of \$186.7 million between estimated contributions revenue of \$188.7 million and the estimated \$375.4 million cost of its infrastructure commitments over a 10-year period. This enabled them to develop a strategy to address the predicted shortfall in funding by increasing rates. Similarly, Surf Coast developed a strategy to fund its estimated \$45 million liability for future infrastructure following a review of infrastructure costs arising from its draft DCP.

Port Phillip had not assessed the additional funding, if any, that it would need to deliver its DCP infrastructure obligations. This means that the nature and significance of any potential shortfall presently remains unknown.

All councils were indexing levies they imposed for development contributions as a further measure to assist in mitigating any future shortfalls.

2.4 Public reporting

Public reporting by councils on the collection and use of development contributions was insufficient to demonstrate to ratepayers that contributions were being spent for the purposes intended, and that the associated infrastructure was being delivered as planned.

Port Phillip and Surf Coast did not report publicly on the infrastructure delivered using development contributions. The development contributions guidelines recommend that councils report on the financial aspects of their DCPs on an annual basis in their annual report. Wyndham reported this information for the first time in its 2008–09 annual report, and also included information about the infrastructure that had been delivered using contributions.

Although councils identified aggregate development contributions revenue in their annual reports, amounts shown did not always adequately distinguish contributions received from gifted assets. This made it difficult to accurately isolate development contributions revenue, and to draw meaningful comparisons between councils.

2.5 Overall conclusion

There is substantial scope for councils to improve their management of development contributions.

Each council had aspects of their management of development contributions that did not comply with the *Planning and Environment Act 1987* and the development contributions guidelines, such as a failure to review their DCPs and a failure to demonstrate that all contributions owed are collected.

While all councils maintained appropriate accounts of development contributions income received, this is only one small part of an effective management framework. Shortcomings in management controls, including monitoring and reporting practices, mean there is insufficient assurance that councils collect all contributions owed to them and, more importantly, that these have been used effectively to deliver associated infrastructure commitments.

Better reporting and governance arrangements are needed to strengthen local management and oversight, and to achieve adequate transparency and accountability for the collection and use of development contributions.

Recommendations

- 1 Councils should review and, where necessary, enhance the effectiveness of controls to make sure that development contributions due are collected.
 - 2 Councils should assure that contributions have been used for their intended purpose by:
 - clearly identifying the standards and delivery time frames for infrastructure commitments contained within voluntary agreements and Development Contributions Plans
 - transparently identifying within council budgets and capital works programs the infrastructure commitments arising from all development contributions
 - accurately and regularly reconciling contributions collected and expended, including delivery of associated infrastructure against that planned.
 - 3 Councils should strengthen local governance arrangements for development contributions by:
 - timely reporting to senior management on the collection and use of development contributions and delivery of infrastructure commitments against that planned
 - systematically identifying and managing all risks to the delivery of infrastructure associated with development contributions
 - assigning management responsibilities for the coordination and oversight of the management of development contributions.
 - 4 Councils should clearly report on the collection and use of development contributions revenue in their annual reports, as well as report on the associated infrastructure delivered against that planned.
-

3 Central monitoring and oversight

At a glance

As the lead agency for planning, the Department of Planning and Community Development (DPCD) has an important role to monitor and support the ongoing effective operation of the system.

Findings

- Although DPCD has taken positive steps to enhance its performance reporting, it does not have arrangements to systematically measure, monitor and report on the performance of the development contributions system.
- Better arrangements within the department for assessing the success and uptake of system-wide reforms are needed to identify and diagnose issues, and to provide assurance that actions taken to improve the system have been effective.
- There are no arrangements in place to assure the minister, Parliament and the wider community that councils have fulfilled their legislative obligations with respect to development contributions.

Recommendation

DPCD, in consultation with the Growth Areas Authority and stakeholders, should develop and incorporate arrangements for assessing the performance of the development contributions system within the monitoring framework currently being developed for Victoria's broader planning system.

3.1 Introduction

Our 2008 report on *Victoria's Planning Framework for Land Use Development* noted that arrangements for monitoring the performance of the state's planning system are not specified in legislation; however, good governance suggests that they should be established. The report recommended that the Department of Planning and Community Development (DPCD) assumes a lead role in further developing such a framework.

DPCD supported this recommendation and committed to developing the framework in consultation with local government, the planning industry and community.

The Growth Areas Authority (GAA) works in partnership with DPCD, the six growth area councils, and other stakeholders to ensure development and infrastructure occurs in a timely manner in Melbourne's designated growth areas. Under the *Planning and Environment Act 1987* (the Act), the GAA has a role to monitor and report on state infrastructure levies collected in growth areas, however, these levies have not yet been established.

The development contributions system is an integral component of the broader planning system. Central oversight and monitoring of the development contributions system is therefore needed to accurately gauge the performance of the wider planning system, and to initiate timely corrective actions to address emerging state-wide issues and risks to infrastructure delivery.

3.2 Adequacy of system-wide monitoring and oversight

3.2.1 Conclusion

Although DPCD has taken positive steps to enhance its performance reporting, it does not have arrangements to systematically measure, monitor and report on the performance of the development contributions system. This limits DPCD's capacity to effectively oversight the system, and to initiate timely and appropriate strategies to improve its effectiveness.

3.2.2 Framework for measuring performance

Our 2008 report on *Victoria's Planning Framework for Land Use Development* identified that a performance measurement system for the planning system should assess the:

- achievement of state and local planning outcomes
- success and uptake of reforms
- extent to which councils are fulfilling their obligations under the Act
- effectiveness and efficiency of statutory processes underpinning the system.

That audit found that the department had taken positive steps to enhance its performance reporting, however, these areas had not been comprehensively addressed.

Similarly, this audit has again found that DPCD does not yet have arrangements to systematically monitor the performance of the development contributions system. The benefits of further developing such arrangements are discussed in the following sections.

Measuring the achievement of planning outcomes

The timely delivery of planned infrastructure to communities through development contributions is a key objective of Victoria's planning system.

As stated in Chapter 2 of this report, none of the councils we examined had a complete record that accurately linked all development contributions collected with those expended, and the associated infrastructure delivered against that planned. Public reporting by councils on this is therefore limited, and the department does not currently monitor such information at a system level. As a result, the overall effectiveness of the development contributions system cannot presently be assessed.

Effective monitoring by councils and DPCD of the achievement of planned infrastructure outcomes would assist in identifying timely actions to address emerging issues with the operation of Victoria's development contributions system.

Assessing the success and uptake of reforms

The State Planning Policy Framework (SPPF) states that Development Contributions Plans (DCPs) prepared and approved under the *Planning and Environment Act 1987*, should be used to manage contributions towards infrastructure.

When they were introduced in 1995, DCPs were intended to become the primary mechanisms for collecting development contributions. To date, only 15 of the 79 councils have developed and incorporated DCPs into their planning schemes indicating that uptake has been low.

Further amendments to the Act in 2004 were intended to enhance the fairness and predictability of the system for both developers and councils by:

- increasing the community infrastructure levy cap from \$450 to \$900 per dwelling
- enabling state agencies, in addition to councils, to directly collect and administer levies under a DCP
- providing an option of preparing a DCP using a preset schedule of limited infrastructure charges
- clarifying the use of planning permit conditions for the provision of infrastructure.

The development contributions guidelines were issued following the 2004 reforms to reflect changes to the system, and to improve guidance to councils in preparing DCPs.

There has been no evaluation to determine whether the 2004 reforms have been effective. Anecdotal evidence from councils and peak bodies is that the low uptake of DCPs reflects the substantial time and resources needed to develop and incorporate them within the planning scheme, which can outweigh the benefits in some areas, particularly where the rate of development is sporadic.

The 2004 reforms aimed partly to address this issue by introducing standard levies via a preset schedule of local infrastructure charges accessible to all councils, as an 'off the shelf' alternative to investing resources in developing a DCP. The schedule of standard levies was developed by the department in 2006 but was not introduced following the government's decision to wait until planned changes to the collection of development contributions in growth areas were finalised.

Assuring councils fulfil their statutory obligations

There is currently no central monitoring and reporting process in place to provide the minister, Parliament and the wider community with assurance on the extent to which councils have fulfilled their legislative obligations with respect to development contributions.

In 2005 the Victorian Competition and Efficiency Commission (VCEC) reviewed Victoria's development contributions system as part of its inquiry into *Housing Regulation in Victoria*. VCEC noted then that there was no independent monitoring or public disclosure of councils' adherence to requirements. It also concluded that such monitoring was needed to assess the effectiveness of the system, and the nature of any reforms needed. VCEC recommended that:

- councils' should disclose the collection and disbursement of development contributions in their annual reports and provide a statement of compliance with the development contributions guidelines (the Guidelines)
- an annual audit of a sample of councils be undertaken to assess their adherence to the requirements of the *Planning and Environment Act 1987* and the guidelines, and that a suitable body to do this might be the Victorian Auditor-General or the department.

The government supported the VCEC recommendations in-principle, but considered that it would be more appropriate for councils to prepare a separate statement of compliance for the Minister for Planning, consistent with the minister's responsibility for the *Planning and Environment Act 1987*. It committed to work with councils to establish an appropriate format for the statement. This has yet to occur.

The results of this audit confirm the need for such arrangements. In our 2008 report on *Victoria's Planning Framework for Land Use Development* we recommended there should be an external periodic assessment of each council's compliance with the *Planning and Environment Act 1987* and its local planning scheme, and that these results should be reported directly to the council and minister, and be made publicly available through their annual report. This recommendation was supported by the department.

Monitoring the effectiveness and efficiency of statutory processes underpinning the system

One of the key responsibilities of DPCD is to manage the ongoing development and maintenance of the *Planning and Environment Act 1987* and regulations on behalf of the Minister for Planning.

There are no ongoing arrangements in place within DPCD to systematically monitor the views of stakeholders, or for assessing the effectiveness and efficiency of key statutory processes relating to development contributions. Such arrangements would assure that relevant processes under the Act effectively and efficiently support the operation of the system, and assist in identifying areas in need of improvement.

A comprehensive review of the Act was initiated in 2008, and proposed amendments are expected to be presented to Parliament in 2010. DPCD anticipates that the new Act will incorporate proposed changes to the provisions governing development contributions in growth areas as outlined in *Melbourne @ 5 million*.

In its 2005 review of the development contributions system, VCEC also noted that vital feedback on the operation of the system was missing as there was no information on whether legislative mechanisms under the planning system governing the collection and use of contributions were effective, or whether they were being effectively applied by councils.

In 2007, the GAA conducted a limited review of council's management of development contributions. Key issues similarly noted by the GAA in some councils included concerns over the adequacy of:

- administrative systems for tracking uncollected levies
- accounting procedures
- resourcing to effectively administer DCPs
- the alignment between DCPs and councils' capital works programs.

No specific action has been taken by DPCD or GAA in response to these issues, however, the GAA has worked extensively with some growth area councils to enhance the management and operation of their DCPs.

3.3 Overall conclusion

Existing performance monitoring arrangements within DPCD are not yet sufficiently developed to achieve effective monitoring and oversight of Victoria's development contributions system.

Recent reforms have sought to improve the operation of the system, but there is insufficient performance data upon which to assess the impact of these initiatives, or the performance of councils in managing development contributions.

DPCD and council should improve the level of transparency and accountability over the collection and use of development contributions. In addition, substantial scope remains for further developing state-wide performance monitoring arrangements. These developments are needed so the system can function as intended by the Parliament, and to maintain public confidence in the wider planning system.

These are longstanding issues and little progress has been made to address them since the 2005 VCEC inquiry.

Recommendation

- 5 The Department of Planning and Community Development in consultation with the Growth Areas Authority and stakeholders should develop the performance measurement system and the broader planning system to include:
 - measures for assessing the delivery of state and local planned infrastructure outcomes
 - arrangements for assessing the success and uptake of reforms to the development contributions system
 - information on the extent to which councils have fulfilled their statutory obligation in relation to development contributions in line with the 2005 VCEC recommendation
 - arrangements for monitoring and reporting on the effectiveness and efficiency of statutory processes underpinning the system.
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