

Clonmel Borough Council



DEVELOPMENT CONTRIBUTION SCHEME 2009 - 2015

3rd February 2009

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Clonmel Borough Council

Planning Section

Development Contribution Scheme 2009-2015

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February 2009

1.0 Legislative Background.

1.1 Introduction

The Planning and Development Act 2000 provides for a Development Contribution Scheme (hereinafter referred to as “the Scheme”) whereby Planning Authorities may, on granting planning permission under Section 34 of the Act, include conditions requiring the payment of a contribution in respect of public infrastructure and facilities benefiting the development in the area of the Planning Authority and that is provided, or intended to be provided, by or on behalf of the Local Authority, regardless of other sources of funding for the infrastructure and facilities.

Section 48 of the Act sets out that the Scheme;

- Shall set out the basis for the determination of a contribution,
- Make provision for payment of different contributions in respect of different classes or descriptions of development,
- Shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are to be provided having regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination,
- May allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provision of the scheme.

This Scheme has been prepared in accordance with Section 48 of the Planning and Development Act 2000. The making of the Clonmel Borough Council Development Contribution Scheme is a reserved function of the Members of Clonmel Borough Council as set out in Section 48(8) of the Act.

2.0 Contribution Schemes

2.1 General Development Contribution Schemes

These contributions schemes apply in respect of public infrastructure and facilities provided by, or on behalf of, the Local Authority that benefit the development in the area. Under a general development contribution scheme, the Planning Authority does not need to show a direct connection between the development contribution paid and works done which facilitate the development. However, it will be important that the Planning Authority is satisfied that the basis for determining the contribution levels can be adequately justified and supported.

The types of public infrastructure and facilities that can be funded by this mechanism are:

- The acquisition of land,
- The provision of open spaces, recreational and community facilities and amenities and landscaping works,
- The provision of roads, car parks, car parking places, sewers, waste water and water treatment facilities, drains and water mains,
- The provision of bus corridors and lanes, bus interchanges facilities (car parks for those facilities), infrastructure to facilitate public transport, cycle and pedestrian facilities and traffic calming measures,
- The refurbishment, upgrading, enlargement or replacement of roads, car parks, car parking places, sewers, waste water and water facilities, drains or water mains and
- Any matters ancillary to the above.

Development contributions can only be levied as capital funding for public infrastructure and facilities and as such cannot be used to pay current costs.

In relation to water and wastewater infrastructure, Planning Authorities shall exclude costs recovered from developers in accordance with the Government Water Pricing Framework. However, pending the full recovery of capital and operational costs through Water Pricing, the levy on commercial/industrial developments for water, wastewater and surface water shall continue where provided.

The period of this General Development Contribution Scheme shall be from 1st March 2009 to 28th February 2015 inclusive unless amended, extended or replaced with a new scheme by the Members of Clonmel Borough Council.

No appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with this Scheme¹. However, an appeal may be brought to the Board where an applicant for permission under Section 34 of the Act considers that the terms of the Scheme have not been properly applied in respect of any condition laid down by the Planning Authority².

¹ Section 48(10)(b) of the Planning and Development Act 2000

² Section 48(10)(c) of the Planning and Development Act 2000

2.2 Special Contribution

A Special Contribution may be imposed on a development where exceptional costs not covered by the General Development Contribution Scheme are incurred by the Local Authority in the provision of a specific public infrastructure and facilities which benefit the proposed development. Any works not commenced within five years or completed within seven years of receipt of payment will result in the applicant being refunded, in full or part, the Special Contribution levy³.

2.3 Supplementary Development Contribution Scheme

This scheme refers to the provision of a particular public infrastructure service or project, which will directly benefit the development(s), concerned and is not covered by the General Development Contribution Scheme. This scheme may only be applied to a specified area within the functional area of the Planning Authority and the making of a Supplementary Development Contribution Scheme is a reserved function of the Members of the Local Authority⁴.

³ Section 48(12) of the Planning and Development Act 2000

⁴ Section 49 of the Planning and Development Acts.

3.0 Overview of 2004-2009 Development Contribution Scheme

3.1 Introduction

Clonmel Borough Council adopted the 2004-2009 Development Contribution Scheme on 10th February 2004 pursuant to Section 48(8) of the Planning and Development Acts. The Scheme applied to conditions attached to Planning Permissions granted under Section 34 of the Acts for the period from 1st March 2004 to 28th February 2009 inclusive with amounts revised in accordance with increases in the Wholesale Price Index – Building and Construction Materials (reference WPAA201) as published by the Central Statistics Office.

3.2 Contributions Collected

A total of €4.75 million has been collected through the general development contribution scheme between 1st March 2004 and 31st August 2008 as set out in Table 1 below.

Table 1

Contribution Type	Amount collected 01/03/04 - 31/08/09
Public Water Supply	864,570.42
Public Waste Water Drainage	1,387,949.64
Roads	1,681,561.41
Recreation and Community	620,600.65
Car Parking	196,729.98
Total	€4,751,412.10

The collection of the contributions has arisen from one of the eleven development classes as set out in the Scheme.

Of the €4.7million collected to date, approximately €1.6million has been spent on capital infrastructure projects throughout the Town. A further €5.6million has been committed to the service areas set out in Table 2 below. Contributions committed to current Service Area Investment Programmes but not yet spent can be a result of lengthy lead-in times which can take up to six years, land acquisition processes or in the case of Recreation and Community can be a result of delayed draw down by the grant beneficiary.

Table 2

SERVICE AREA	Contributions Spent	Contributions Committed
Public Water Supply	€5,875.10	€1,005,238.90
Public Waste Water Drainage	€900,349.14	€18,408.86
Roads	€298,435.35	€2,037,564.65
Car Parking	€223,658.77	€1,121,341.23
Recreation and Community	€80,250	€27,750.00
Total	€1,598,568.36	€5,610,303.64

3.3 Contributions Outstanding

There are currently €1.94 million of development contributions outstanding. These charges relate to development that has commenced but have not yet paid the charges in full. €1.92 million of the contributions that are payable but as yet outstanding relate to developments that have entered into a phasing arrangement for payment and as such it is anticipated that this full amount will be collected in agreement with the separate phasing arrangements. The balance of €2,000 occurs where development has commenced but no development contribution has been paid. The Planning Section are actively pursuing this €2,000 through enforcement proceedings as failure to pay the contribution charge equates to non-compliance with the conditions attached to a planning permission.

4.0 CLASSES OF PUBLIC INFRASTRUCTURE AND FACILITIES:

Development contributions shall be paid in respect of the following classes of public infrastructure and facilities benefiting development in the functional area of Clonmel Borough Council and that is provided, or that it is intended will be provided, by or on behalf of Clonmel Borough Council.

4.1 Public Water Supply Services

The sum levied is a contribution towards the cost of: -

- (a) the provision of water treatment facilities and water mains;
- (b) the refurbishment, upgrading, enlargement or replacement of water treatment facilities or water mains;
- (c) the acquisition of land in respect of (a) and (b) above; and
- (d) any matters ancillary from (a) to (c) above.

4.2 Public Waste Water Drainage Services

The sum levied is a contribution towards the cost of: -

- (a) the provision of sewers and drains;
- (b) the refurbishment, upgrading, enlargement or replacement of sewers, and drains;
- (c) the acquisition of land in respect of (a) and (b) above; and
- (d) any matters ancillary to (a) to (c) above.

4.3 Road Infrastructure

The sum levied is a contribution towards the cost of: -

- (a) the provision of open spaces and landscaping works;
- (b) the provision of roads;
- (c) the provision of infrastructure to facilitate public transport, cycle and pedestrian facilities, traffic management measures and traffic calming measures;
- (d) the refurbishment, upgrading, enlargement or replacement of roads;
- (e) the acquisition of land in respect of (a) to (d) above; and
any matters ancillary to (a) to (e) above.

4.4 Car Parking Facilities

At the time of the making of this scheme, Clonmel Borough Council's requirements in relation to vehicle parking standards are those set out in Table 2 of Section 9.7.2 of the Clonmel and Environs Development Plan 2008. However in the event that the Development Plan is varied or reviewed prior to the expiration of this scheme, then the charges to be levied will be in accordance with any amended vehicle parking standards therein contained.

In dealing with development for uses other than those set out in Table 2, the proper planning and sustainable development of the area will be taken into consideration in determining the appropriate parking standard which will apply.

In all developments of an Industrial or Commercial nature, developers will be required to provide loading and unloading facilities sufficient to meet the demand of such development. The requirements for the provision of these facilities are set out in Table 2 of the Development Plan or any amendment or variation thereof.

Where the developer is unable to meet the requirements relating to car parking, a development contribution, commensurate with the shortfall in spaces, shall be paid to the planning authority to facilitate the provision of car parking spaces elsewhere.

The sum levied is a contribution towards the cost of: -

- (a) the provision of car parks and car parking spaces;
- (b) the refurbishment, upgrading, enlargement or replacement of car parks and car parking spaces;
- (c) the acquisition of land in respect of (a) and (b) above; and
- (d) any matters ancillary to (a) (b) and (c) above.

4.5 Recreational and Community Facilities and Amenities

The sum levied is a contribution towards the cost of: -

- (a) the provision of recreational and community facilities and amenities;
- (b) the acquisition of land in respect of (a) above; and
- (c) any matters ancillary to (a) and (b) above.

The sum levied under this heading will be expended in accordance with stated policies and objectives as set out in Chapter 5 of the Clonmel and Environs Development Plan 2008, or any amendment or variation thereof.

5.0 CLASSES OF DEVELOPMENT:

Development contributions shall be paid in respect of the following different classes or descriptions of development:

Table 3

Class	Description	Category
Class 1	<p>The provision of or extension to any of the following:</p> <p>(a) Business premises including:</p> <ul style="list-style-type: none"> - any structure or other land which is normally used for the carrying on of any professional or commercial undertaking or any structure which is normally used for the provision therein of services to persons; - a hotel, restaurant or public house; - any structure or other land used for the purpose of, or in connection with, the functions of a state authority. <p>(b) The provision of facilities for childminding.</p> <p>(c) The provision of a day centre.</p> <p>(d) The provision of any guesthouse or other premises providing overnight guest accommodation, club, boarding house or hostel.</p> <p>(e) The provision of a shop or supermarket.</p> <p>(f) The provision of a wholesale warehouse or repository.</p> <p>(g) The provision of a school or college.</p> <p>(h) The provision of a nursing home, hospital or health centre.</p>	Commercial
Class 2	The provision of or extension to an industrial building or light industrial building.	Industrial
Class 3	The provision of a house/dwelling in accordance with the policies of the Clonmel and Environs Development Plan 2008.	Residential (A)
Class 4	<p>The provision of an extension to an existing house or dwelling or the conversion for use as part of the house/dwelling of any garage, store, shed or other structures is exempt from development charges where the development is less than 40 sq metres. A charge <u>will</u> apply in respect of floor area in excess of 40 sq metres.</p> <p>Furthermore for the avoidance of doubt, where the house has been extended previously whether by way of exemption or grant, the total floor area of all extensions shall be liable to a contribution with the exception of the first 40 sq metres.</p>	Residential (B)

Class 5	The provision of an advertisement structure or the use of an existing structure or other land for the exhibition of advertisements	Commercial
Class 6	The provision on in over or under land of plant or machinery or of tanks or other structures (other than buildings) for storage purposes.	Commercial
Class 7	The use of land for the deposit of refuse or waste.	Industrial
Class 8	The provision of a telecommunications mast.	Social and Public
Class 9	The provision of telecommunication antennae	Social and Public
Class 10	The use of land as a golf course or pitch and putt course	Amenity
Class 11	The provision of buildings or other structures for the purpose of agriculture or the keeping of horses where the gross floor area, when measured internally, exceeds 600 square metres.	Agricultural
Class 12	Development not coming within any of the foregoing classes	Not applicable

6. DEVELOPMENT CONTRIBUTIONS:

For the purposes of this Scheme the following are considered to be the baseline development contributions applicable in respect of the classes of public infrastructure and facilities described in section 4 above:

Schedule of Contributions

Table 4

Class of Infrastructure Class of Development	Public Water Supply Services	Public Waste Water Drainage Services	Road Infrastructure	Recreational and Community Facilities and Amenities	Car Parking Facilities (See 7.4)
	€	€	€	€	€
Class 1 per sqm	8.50	12.66	22.57	3.38	6,400
Class 2 per sqm	10.63	16.34	22.57	6.56	6,400
Class 3 per sqm	17.00	21.79	22.57	23.63	6,400
Class 4 per sqm	17.00	21.79	22.57	23.63	
Class 5 per sqm			2.26		
Class 6 per sqm			22.57		
Class 7 per sqm			2.26		
Class 8 per mast			6,000	15,000	
Class 9 per antennae			1,000	4,500	
Class 10 per 0.1 ha			22.57		
Class 11 per sqm	8.50		22.57		
Class 12 per sqm	8.50	12.66	22.57	3.38	6,400

7.0 BASIS FOR DETERMINATION OF DEVELOPMENT CONTRIBUTIONS:

The basis for determination of the development contributions has included calculation of the real current cost to Clonmel Borough Council (excluding grant assistance) of the provision of high quality infrastructure to meet the needs of a vibrant, progressive and forward-looking town and the applicability of these costs to new development.

The Scheme reflects to the greatest extent possible the different demands arising from different scales of development.

The basis for determining development contributions in respect of the classes of infrastructure and facilities benefiting development as detailed in section 4 (on pages 8 & 9) above is as set out in the following subsections. In assessing the apportionment of cost to new development, the benefit of capital works to existing development has been excluded in accordance with the Planning and Development Act 2000.

7.1 Public Water Supplies

The following table lists the water supply capital works expected to be undertaken in the period 2009-2015.

(It should be noted that charges in relation to water usage imposed as per the Water Services Pricing Policy are not considered).

Table5

Name of Scheme	Estimated Overall Cost	Estimated Cost to C.B.C.	Net Cost to new development
Clonmel Town & Rural Water Supply Scheme (Medium Term)	€8,000,000	€8,500,000	€1,500,000
Short-term Capital Works at Water Treatment Plants (EPA/HSA requirements)	N/A	€500,000	€100,000
Network Replacement/ Water Conservation Programme	N/A	€500,000	€100,000
TOTAL		€9,500,000	€1,700,000

It is estimated that the net expenditure will benefit new development in accordance with consumption rates as follows:

Table 6

TYPE	PERCENTAGE
Residential	50%
Commercial	35%
Industrial	15%

Chapter 2 of the Clonmel and Environs Development Plan 2008 indicates that approx. 2080 units of housing may be required in the Borough and Environs up to 2014. It is estimated that approx. 500 units (50,000sq.m) will be within the Borough Council area allowing for the slowdown/oversupply situation at present.

The floor area of Residential, Commercial & Industrial development on zoned land is expected to be similar to that used in the previous development levy scheme as follows:

Table 7

CLASS	EXPECTED FLOOR AREA
Residential	50,000 m2
Commercial	70,000 m2
Industrial	24,000 m2

Accordingly the estimated cost per class of development is apportioned as follows:

CLASS	CALCULATION	UNIT COST
Residential	$\frac{€1,700,000 \times 0.50}{50,000}$	€7.00/m2
Commercial	$\frac{€1,700,000 \times 0.35}{70,000}$	€8.50/m2
Industrial	$\frac{€1,700,000 \times 0.15}{24,000}$	€0.63/m2

7.2 Public Surface Water and Waste Water Drainage Services

The following tables list the works proposed to be carried out in the period 2009 – 2015 in respect of public surface water and waste water drainage services.

(It should be noted that charges relating to discharge of foul sewage imposed as per The Water Pricing Policy are not considered).

Table 8

Name of Scheme	Estimated Cost	Net Cost to new development
Clonmel Main Drainage Sewer Rehabilitation	€1,300,000	€ 430,000
Serviced Land Initiatives in Northern Environs	€2,000,000	€1,200,000
Sludge Management	€5,880,000	€588,000
Sewer replacement incl. Suir Island area	€ 600,000	€150,000
TOTAL	€12,780,000	€2,368,000

It is estimated that the net expenditure will benefit new development in accordance with discharge rates as follows:

Table 9

CLASS	FLOOR AREA	PERCENTAGE
Residential	50,000 m2	46.01%
Commercial	70,000 m2	37.43%
Industrial	24,000 m2	16.56%

Accordingly the estimated cost for each class of development is apportioned as follows:

CLASS	CALCULATION	UNIT COST
Residential	$\frac{€3,368,000 \times 0.4601}{50,000}$	€1.79/m2
Commercial	$\frac{€3,368,000 \times 0.3743}{70,000}$	€2.66/m2
Industrial	$\frac{€3,368,000 \times 0.1656}{24,000}$	€6.34/m2

7.3 Road Infrastructure

Chapter 7 of the Clonmel & Environs Development Plan 2008 sets out the policies and objectives of Clonmel Borough Council in relation to Transportation. It is evident that new developments impact on the roads network in various ways. Increased traffic is generated and the road(s) may not be suitable for additional traffic and may require improvement. Additional public lighting and traffic management measures including the provision of additional car-parking, traffic signals, signage and road marking are required both adjacent to the new development and on the road network generally. It is clear that the outer areas of Clonmel currently being developed will require capital investment in roads infrastructure and that a major proportion of the costs involved must be levied on the new developments. For new development on existing roads, a system of development levies is required which takes account of existing and proposed development in accordance with the requirements of the Planning and Development Act, 2000.

Table 10 sets out the estimated cost of implementing the Clonmel Traffic Management Study 2006 as agreed by the elected members of Clonmel Borough Council. Some aspects of the Traffic Management Study 2000 also remain to be undertaken for which it is considered necessary to continue to apply a levy on new development.

Roads/Traffic Management Estimate (2009-2015)
(Based on the Traffic Management Study 2000 &
Traffic Management Study 2006)

Table 10

Scheme	Estimated Cost (updated & revised)	Cost apportionment to new development
1. Town Centre Improvements (excl. car parking) - Proposed paving of Town Centre Streets, New Lighting, Undergrounding of Cables etc)	€4,500,000	€2,250,000
2. Former N24 Improvements (incl. Cahir Rd, Western Rd, Queen St/Kickham St, Davis Rd & Waterford Rd)	€1,000,000	€500,000
3. Arterial Route Improvements (incl. Cashel Rd, Fethard Rd & Raheen Rd/Coleville Rd)	€800,000	€400,000
4. Area wide measures incl. Traffic Signals, Public Lighting & Signage	€1,000,000	€100,000
Total	€7,300,000	€3,250,000

Table 11

CLASS	FLOOR AREA	PERCENTAGE
Residential	50,000 m ²	34.72%
Commercial	70,000 m ²	48.61%
Industrial	24,000 m ²	16.67%

Accordingly the estimated cost for each class of development is apportioned as follows:

CLASS	CALCULATION	UNIT COST
Residential	$\frac{€3,250,000 \times 0.3472}{50,000}$	€22.57/m ²
Commercial	$\frac{€3,250,000 \times 0.4861}{70,000}$	€22.57/m ²
Industrial	$\frac{€3,250,000 \times 0.1667}{24,000}$	€22.57/m ²

7.4 Car Parking Investment 2009-2015

Section 7.5 of the Clonmel & Environs Development Plan 2008 sets out the policies and objectives of the Council in relation to car parking. The provision of a public Multi-Storey Car Park in the Town Centre remains an objective of the Council in the medium term subject to financial and other considerations. The typical construction cost per space for a Multi-Storey car park is in the region of €15,000.

Section 9.7 of the Development Plan sets out the parking standards for new developments. Developers are required to make a financial contribution towards the provision of car parking if unable to provide sufficient car parking within their own development. However, it is stated in the Development Plan that the Council will adopt a flexible approach to the car parking requirements in the Central Area where a proposed development is considered to provide a desirable use.

Table 1 below is based on car-parking proposals from the Traffic Management Study 2000 and the Traffic Management Study 2006 with regard to estimated costs of providing car parking in the period 2009-2015. In assessing the apportionment of cost to new development, the benefit to existing development has been excluded in accordance with the Planning and Development Act 2000.

Car-Parking Estimate (2009-2015)

Table 12

Scheme	Estimated Cost (updated & revised)	Cost apportionment to new development
1. Short Term Car Parking Proposals	€ 400,000	€ 200,000
2. Medium Term Car Parking Proposals	€6,000,000	€3,000,000
Total	€6,400,000	€3,200,000

It is considered that 500 off-street parking spaces are required in accordance with the Traffic Management Plan 2000 and taking account of the removal of on-street car parking as a result of the Traffic Management Plan 2006.

The cost apportionment per space is €6,400 i.e. €3,200,000/500.

7.5 Recreational, Community and Amenity Facilities

The Clonmel & Environs Development Plan 2008 set out policies and objectives of Clonmel Borough Council with regard to the following:

- Community Development, Education and Cultural Facilities.
- The Environment, Amenity and Open Space.

Projected amenity and cultural expenditure for the period 2009 to 2015 is as follows:

Table 13

Objective	Estimated Cost	Cost apportioned to new development
Environmental and streetscape improvements in Borough area	€350,000	€70,000
Provide /Upgrade children's facilities at various locations	€250,000	€50,000
Upgrade of St. Patrick's Cemetery to include car-parking & boundary treatment.	€500,000	€100,000
Provide riverside amenity including footpaths and landscape features.	€210,000	€70,000
Provision of new footbridge on River Suir at Suir Island	€2,000,000	€400,000
Environmental improvement works to Mick Delahunty Square	€1,200,000	€400,000
Provision of access of people with mobility impairments to existing public buildings	€100,000	€10,000
Contribution to development of an educational, scientific, technological, research and development park	€50,000	€10,000
Facilitate the provision of an alternative site for the Gaelscoil within the Borough boundary	€30,000	€15,000
Promotion and development of tourism, community and recreational facilities.	€450,000*	€450,000*
TOTAL	€5,140,000	€1,575,000

*See Appendix A regarding the Community Facilities Scheme.

New development impacts on existing infrastructure and amenity facilities and requires the provision of new and/or an upgrading of existing facilities. It is considered that the distribution of development levies should be apportioned as follows:

Table 14

CLASS	FLOOR AREA	PERCENTAGE
Residential	50,000 m2	75%
Commercial	70,000 m2	15%
Industrial	24,000 m2	10%

Accordingly the estimated cost for each class of development is apportioned as follows:

Table 15

Type of Development	Calculation	Rate
Residential	$\frac{\text{€}1,575,000 \times 0.75}{50,000}$	€23.63/m2
Commercial	$\frac{\text{€}1,575,000 \times 0.15}{70,000}$	€ 3.38/m2
Industrial	$\frac{\text{€}1,575,000 \times 0.10}{24,000}$	€ 6.56/m2

8.0 GENERAL PAYMENT ARRANGEMENTS AND EXEMPTIONS:

The following general arrangements will apply in respect of the payment of development contributions:

8.1 (a) The contribution payable will be based on the rate of contribution applicable at the date of payment and not on the rate of contribution in force at the date of issue of the grant of permission. This provision will also pertain where there has been a change in the rate of contribution occurring between the date of the decision to grant permission and the date of issue of the grant of permission.

(b) Where a contribution is not paid in accordance with the terms of the appropriate condition as laid down by Clonmel Borough Council, as planning authority, (or, as appropriate, by An Bord Pleanála on appeal) any outstanding amounts due to Clonmel Borough Council shall be paid together with interest that may have accrued for the period withheld. Interest shall be calculated in accordance with the overdraft rate of interest applicable at the time.

8.2. Clonmel Borough Council may facilitate the phased payment of contributions due in accordance with the terms of this Scheme, and may require the giving of security to ensure the payment of contributions. The payment of contributions on a phased basis will be assessed on a case-by-case basis.

The prior written consent of Clonmel Borough Council will be required for the payment of contributions on a phased basis. The contribution payable upon each phase will be based on the rate of contribution applicable at the date of payment and not on the rate of contribution in existence at the date of issue of the grant of permission.

8.3. Clonmel Borough Council may recover, as a simple contract debt in a court of competent jurisdiction, any contribution or interest due to it under the terms of this Scheme.

8.4. The required development contributions shall be reduced by 100% in the following cases where a fee has not been payable when making such an application, in accordance with Article 157(1) and (2) of the Planning and Development Regulations, 2001:

(1) *when a planning application consists of or comprises development, which in the opinion of the planning authority, is development proposed to be carried out by or on behalf of a voluntary organisation, and which in the opinion of the planning authority:*

(a) *is designed or intended to be used for social, recreational, educational or religious purposes by the inhabitants of a locality, or by people of a particular group or religious denomination, and is not to be used mainly for profit or gain,*

(b) is designed or intended to be used as a workshop, training facility, hostel or other accommodation for persons with disabilities and is not to be used mainly for profit or gain, or

(c) is ancillary to development referred to in paragraph (a) or (b);

(2) where a planning application consists of or comprises the provision of houses, or development ancillary to such provision, which is proposed to be carried out by or on behalf of a body approved for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act, 1992 and is not to be used mainly for profit or gain.

8.5. Development contributions payable in respect of that part of a development which is subject to the requirements of Part V of the Planning and Development Act, 2000, as amended by the Planning and Development (Amendment) Act, 2002, in relation to the provision of social and affordable housing, shall be taken cognisance of in the formulation of an agreement between the developer and Clonmel Borough Council. Where Part V agreements are not in place prior to the decision to grant permission the full contribution will be applied, and will remain in place, unless an agreement which includes the provision of Social/Affordable Housing is entered into.

In general terms a refund of 100% of the contribution will be made in respect of units provided for social housing. A 50% refund will be made in respect of units provided for affordable housing.

8.6. Adjustments for non-residential development contributions will be made by the Water Services Authority when calculating the consolidated charge for water services under the Framework for Water Pricing.

8.7. An application for permission for modification to a permitted development, including a change of house type or amendment to a site layout, will be assessed on the basis of the scale of development contributions in operation at the date of issue of the decision to grant permission.

8.8. No development contributions shall be payable in respect of developments carried out by Clonmel Borough Council pursuant to Section 179 of the Planning and Development Act, 2000.

8.9. The required development contributions shall be reduced by 50% for developments, excluding those described at 4 above, located within those areas of Clonmel Borough Council's administrative area that have been designated under the RAPID (Revitalising Areas by Planning Investment and Development) programme.

8.10. Development contributions payable in respect of an application for permission for change of use shall be assessed in accordance with the appropriate class pertaining to the proposed use, with an allowance being made for any development contributions already paid in respect of the former use.

8.11. In the case of a mixed development, the development contribution payable will be based on the sum of contributions payable in respect of each class of development within the overall development.

8.12. The development contribution charge shall be reduced by 50% in the following instances:

- Where the development consists of restoration/refurbishment works adhering to the principles of conservation to structures included on the Record of Protected Structures, or
- Where the development is being carried out by a person who is in receipt of a Housing Adaptation Grant for People with a Disability for the subject development.

9.0 IMPLEMENTATION OF SCHEME:

This Development Contribution Scheme shall come into operation on 1st March 2009 and will be applied to all decisions to grant planning permission made on or after that date, irrespective of when the planning application was submitted, on land administered by Clonmel Borough Council. It shall also apply to any order by An Bord Pleanala on or after that date where it is a condition of the order that the amount of a development contribution is to be determined by the Planning Authority.

Exceptional costs

Clonmel Borough Council may, in addition to the terms of this scheme, require the payment of a Special Contribution in respect of a particular development where specific exceptional costs not covered by this scheme are incurred in respect of public infrastructure and facilities that benefit the proposed development.

Where payment of such a contribution is required, the condition shall specify the particular works carried out or proposed to be carried out by Clonmel Borough Council to which the contribution relates.

Where the works in question;

1. Are not commenced within 5 years of the date of payment to Clonmel Borough Council of the contribution,
2. Have commenced, but have not been completed within 7 years of the date of payment to Clonmel Borough Council, or
3. Where Clonmel Borough Council decides not to proceed with the proposed works or part thereof,

the contribution shall be refunded to the applicant together with any interest that may have accrued over the period while held by Clonmel Borough Council. However, where Clonmel Borough Council has incurred expenditure within the required period in respect of a proportion of the works proposed to be carried out, any refund shall be in proportion to those proposed works that have not been carried out.

An applicant may, subject to the agreement of Clonmel Borough Council, undertake the specific works, to which the specific exceptional costs relate, in lieu of special contribution payment. Such an agreement may allow for the works to be carried out to Clonmel Borough Council specified standards and supervision arrangements.

Clonmel Borough Council may, in addition to the terms of this scheme require the payment of a supplementary contribution in accordance with a Supplementary Development Contribution Scheme if made by the Planning Authority.

- The contribution rates payable will be adjusted annually, commencing on 1st January 2010 based on changes to the Wholesale Price Index - Buildings and Construction published by the Central Statistics Office. The base period, against which changes in the Wholesale Price Index – Buildings and Construction will be compared with, will be February 2009.

This Development Contribution Scheme shall apply until 28th February 2015 inclusive unless it is otherwise modified, extended or replaced.

Appendix A – Community Facilities Scheme

Purpose of Scheme.

This Scheme is intended to assist communities in the provision of recreational and community facilities and amenities and landscaping works, the acquisition of land for that purpose and any matters ancillary to same (as per Section 48, 17 (a) and (b), Planning and Development Act, 2000), the funding to come from Development Contributions under the ‘Community’ heading.

History of Scheme

Since 2005 the Council has distributed some €217,000 in over 20 capital works grants to community facilities in the town.

Year	Applications
2005	5
2006	6
2007	3
2008	6

Definition of Community Facilities.

The range, type and locations of community facilities to be assisted will be defined by

1. The range of facilities assisted in the previous schemes.
2. The LA 21 Wheel of the County Development Board County Strategy, 2002, which provides for a range of desired community facilities at village, small town and county town levels.
3. Research, plans and strategies of this Council including the County Development Plan.
4. Research, plans and strategies already provided or to be provided by the Council or other bodies and endorsed by the County Development Board or its sub-groups.
5. Plans and strategies agreed at national level.
6. Consultation, past and future, with countywide bodies and representative groups.
7. Community needs as expressed by applications

Types of Facilities.

It is envisaged that the types of facilities to be assisted would include those previously assisted:

- sporting facilities;
- children’s playgrounds;

- facilities for youth and senior citizens;
- multi-functional community halls;
- community resource centres;
- arts and library facilities;
- parks and walks;
- heritage sites.

In all cases the types of works to be assisted must include the acquisition of land or be capital works i.e. new or renovated structures or fixtures.

Principles of the Scheme.

The operation of the Scheme, including the selection of yearly priorities and the assessment of applications, shall be based upon the following priorities.

- Sustainability
- Public Access
- Social Inclusion
- Prevention of duplication
- Support for multi-use and shared projects
- Support for multi-source funding package projects
- Creation of tiers of community facilities (from small local to single very large county level)
- Support for community development bodies and their well-founded projects with cross-community support
- Support for projects with strong cross-community backing and a sound financial basis
- Agreed yearly priorities arising from reviews (including the closing of the Scheme to projects of certain types or to those who have received a certain number of grants)

Level of funding.

It is estimated that in the period 2009-2015 a sum of €450,000 (€75,000 p.a.) will be required to continue the task of providing supporting community facilities within the context of:

1. The factors noted above in 'Definition of Community Facilities'
2. The principles listed above and
3. The levels previously attained.

Grants will only be awarded in the context of available funds. Clonmel Borough Council may carry funding from year to year.

Terms and Conditions of Community Facilities Scheme.

1. Funds will be provided on the basis of expressed need, where there is a genuine lack of such facility proposed, in accordance with the principles listed above.
2. Clonmel Borough Council reserves the right in conjunction with South Tipperary County Council to conduct, commission or review research on the social, economic and cultural needs of the town and county and, in particular, on the need for recreational and community facilities and amenities and to modify the Scheme and its administration, or not, accordingly.

Administrative

1. Applications must be from a legally constituted, not for profit, club or association which: –
 - a. Is registered and in good standing with its national representative body, if any;
 - b. Has a constitution or rules or memorandum of association approved by Clonmel Borough Council;
 - c. Holds minuted annual general meetings and appointed officers and committee;
 - d. Is open to new members, without discrimination, from the area which the club or association serves; and
 - e. Has made financial, investment and other records (including all bank and other account details) available to Clonmel Borough Council.
2. A club or association which does not fulfil all of the above conditions ((a) to (e)) may still apply but must have them fulfilled before a contract with the Council regarding a grant can be signed.
3. Applications for funding shall be due after 1 January and no later than 4.30pm on 14th April (or the first working day after, if 14th April is not a working day) at locations(s) to be advertised unless otherwise decided. Funding decisions shall be communicated to the applicants no later than 31 October unless otherwise decided.
4. Applications for funding must be submitted on the appropriate application form and all relevant and necessary supporting information must be included. Incomplete applications may be returned or delayed.
5. The beneficiary must produce appropriate satisfactory evidence of clear and valid title, or an agreement to acquire title, to the lands or buildings to be funded under the Scheme. Where title is leasehold the interest must be for a minimum of 10 years and such matters shall be taken into consideration by the local authority in deciding the amount of grant to be paid. Projects can be sited on Council-owned land provided written permission is given by the Town Manager.

6. Grant-aided facilities shall not be alienated, assigned, sold or otherwise disposed of without the consent of the relevant local authority.
7. Applications for funding will normally only be accepted for capital works which have not yet taken place. Works can start after the application has been submitted (photographs of the site pre-works should be included) and/or a visit by staff from Clonmel Borough Council, but it is to be clearly understood that acceptance of an application does not mean that a project will be funded.
8. Successful applicants must enter into a legal agreement conferring the right on the local authority at its absolute discretion to seek a refund of the grant paid, in whole or in part, where the facility is disposed of at any time, if the applicant ceases its activities or if public access as provided for in the application is restricted or closed. However the amount of grant paid (and to be refunded as outlined above) shall be depreciated by 10% of the overall total each year until totally expended.
9. Applicants are reminded to be very realistic regarding financial planning and sustainability. Consideration should be given to developing projects on a phased basis to avoid crippling interest charges, for example, and income figures should be based on realistic user projections.
10. Funding will be provided for capital works, i.e. new projects or the refurbishment of existing facilities. Where new projects are to replace an existing facility, the application should include an explanation as to why the existing facility is not suitable or has not been viable.
11. Where an application for funds is rejected, the applicant may return it asking for the decision to be reviewed and giving the reasons and/or information why the application should be reviewed.
12. Applications will be retained for two years during which time the applicant can revise or add to it. Applications, which are not sufficiently complete to enable them to be examined by the Assessment Committee, will be disposed of two years after receipt.
13. If a project is found to have submitted false or fraudulent documentation or to be purposely misleading Clonmel Borough Council in any way, funding may be delayed or withdrawn and the project barred from any further grants.
14. Administrative and other requirements may be revised or altered by the assessment committee at any time.

Planning

1. Facilities aided under this Scheme shall comply with the provisions of the Planning and Development Acts, 2000-2007, the Building Control Act, 1990 and, where appropriate, other relevant or amending legislation.

2. To receive a grant payment, projects must confirm that the works carried out are in accordance with planning requirements. This can be done either by requesting the Planning Section of the Council to confirm this or by having the project's professional advisor certifying same.
3. Projects can however apply for a grant, pending receipt of planning permission or confirmation that planning is not required.
4. Community and Enterprise staff will not give any undertaking or enter into discussions regarding planning issues connected with any project.

Financial

1. Funding will be provided only for capital projects with a minimum budget of €10,000.
2. Projects are expected to provide at least 30% of the project budget from their own resources. No more than €5000 of this shall be voluntary labour. Original receipts for payments shall be produced.
3. The Assessment Committee will set Grant levels.
4. Applicants are strongly encouraged to raise a portion of the funds required themselves and/or to seek matching funding from other agencies. Applicants will be required to satisfy the Council with regard to the source and amounts of funds sufficient to finish the project.
5. Applications for projects of a multi-year funding nature are not excluded as the Council does wish to encourage the realistic phasing of projects to match available income to avoid crippling interest charges. However the awarding of grants is decided on a year-by-year basis, based on available funding and no commitment can be given for subsequent years.
6. Funding approved must be drawn down within two years of approval, or as otherwise agreed in writing with Clonmel Borough Council.
7. Appropriate evidence of financial need and proposals for matching resources must be produced. Efforts to form partnerships and source alternative/matching funding must be outlined. The level of grant payable may be determined by the level of other funds raised by the applicants and by the amount of funds committed by other agencies.
8. Projects which are awarded grants do so on the basis that should they receive grants from other bodies, the grant may be reviewed and possibly reduced should it be clear that the funding is not required.
9. Grants will only be paid out for works completed and which were named in the application form and approved by the Assessment Committee or subsequently agreed.

10. The payment of a grant will be subject to the beneficiary providing
 - a. A current form C2 or Tax Clearance Certificate from the Revenue Commissioners.
 - b. Similar documentation from the main contractor for the project.
 - c. A summary of expenditure form (F8) certified by the project's professional advisor.
 - d. Three quotations for the works.
 - e. Proof of insurance for the project and the main contractor.
 - f. Documentation as requested relating to the status of the project group/association.

11. The beneficiary must meet public procurement provisions as laid down by Clonmel Borough Council. In particular any expenditure of over €1,270 must be backed by at least three quotations from public advertisement or letter addressed to known suppliers (sole suppliers excluded).

12. The local authority may withhold all or any portion of a grant, which has been unpaid, or any portion of a grant paid may be recovered where any of the terms and conditions are not being complied with or where there is an unapproved material change in the proposals for which the application was made.

13. Grant allocations may be reviewed or revoked at any time by the relevant local authority if progress on the development or refurbishment is not satisfactory.

Social Inclusion and Consultation.

1. Social Inclusion is a principle of the Scheme. This means that applicants must undertake to include all people in the community and to have a positive discrimination policy towards the following groups of people: Older people, people with disabilities, women, youth and children, travellers, migrants, refugees, and foreign nationals (different ethnic groups) as well as people from rural, Clar and RAPID areas. Applicants will therefore be requested to submit a Social Inclusion Statement to this effect and to show how their project will make a positive contribution in this regard.

2. Facilities being built or refurbished shall provide disability access to best available standards. A sample of applications each year shall be subject to a disability audit by the Council and requirements with regard to disability access may be specified as part of the grant process requirements.

3. The extent and nature of the consultation associated with the project shall be considered in the assessment process. Ideally there should be clear evidence of detailed consultation with the group(s) whom it is intended shall use the facility.

Management of the Facility.

1. The beneficiary shall agree to be responsible for any loss, damage or injury to person or persons or property arising out of the provision or use of the facility.
2. Funding will be provided on the understanding that it is for the provision of facilities to the general public, as submitted by and agreed with the promoters in the application. Any restriction of that agreed access, without the consent of the Council, may result in the recovery of the grant.
3. Clonmel Borough Council reserves the right to request promoters to send delegate(s) to relevant training for voluntary committees.
4. Promoters should provide the Council with a business plan dealing with running costs and maintenance costs. Where a project is not intended as economically self-sufficient, sources of funding for running costs and maintenance costs should be outlined.
5. Where the beneficiary employs persons directly to work on the project, their pay shall be subject to income tax, returned to the Revenue Commissioners.
6. All work carried out should be in accordance with relevant legislation and regulations and the Council will not be responsible for any defects or liabilities.
7. All persons or companies engaged on the project by the promoter should be adequately insured and Clonmel Borough Council will not be responsible for any damage or injury to anyone.
8. The assistance of Clonmel Borough Council must be publicly acknowledged in a manner to be agreed with the Council. The Mayor, members and town manager must be invited to any event connected to the works. A plaque may be provided by the Council for display at the project and the cost of same may be deducted from the grant.
9. The beneficiary shall produce evidence of appropriate employer's liability insurance and public liability insurance to limits specified by the relevant local authority which shall be fully indemnified. All grant-aided assets shall, where appropriate, be kept insured at all times against loss or damage by fire, storm or flooding. All compensation paid under such insurance shall be used to restore the property so damaged or lost and any shortfall shall be made good by the beneficiary. The interest of the relevant local authority shall be noted on all policies. The local authority shall be indemnified against all claims under all insurances relating to the project.
10. The Council reserves the right to reject any application or to refer it back to the applicants for re-consideration, to refer it for discussion to other bodies or to publish details of it.

11. Applicants are strongly encouraged to liaise with all agencies (e.g. South Tipperary County Council, Health Service Executive, LEADER II (principally Tipperary LEADER Group and Barrow-Nore-Suir Rural Development Ltd.), relevant Government Departments, other clubs/associations, etc.) to ensure that the project does not conflict with existing plans or strategies.
12. Applications from strong partnerships of several bodies or funded by a 'package' from several agencies will be encouraged.

Restrictions.

1. Funding will not be provided for: –
 - (a) Maintenance or day to day running costs;
 - (b) Mobile assets; and
 - (c) Feasibility studies for capital projects.
 - (d) More than €3,000 in professional fees.
2. No more than €5,000 or half of the 30% project promoter's financial input into the project shall be voluntary work in lieu of cash.

Disclaimers.

1. Funding of the project by Clonmel Borough Council does not imply that it is responsible for the maintenance or running of the facility, now or in the future.

Alia.

1. A formal legal agreement will be signed between the beneficiary and the local authority to reflect the terms and conditions of this Scheme prior to payment of a grant or any part thereof.
2. Applications shall be evaluated, in the light of the above requirements, by the office of the Director of Community and Enterprise and then approved by the assessment committee for Clonmel Borough Council comprised of:
the Manager for Clonmel Borough Council;
the Town Clerk;
the Borough Engineer;
the Mayor;
other members of the Borough Council's management team as thought appropriate.

A report shall then be presented to the members of the Borough Council (at their next monthly meeting) for their information.

Where it can be shown that the users of an approved project are drawn from a County Council electoral area, as well as from the Borough Council area, a recommendation may be made to the assessment committee above, through the Director of Community and Enterprise, regarding the provision of funding from

the County Council Scheme to the project, in parallel with funding from the Borough Council.

3. Further information is available from the Planning Section, Clonmel Borough Council 052 – 6183800 and the Community and Enterprise Section, South Tipperary County Council, Áras an Chontae, Clonmel, Co. Tipperary, tel. 052-6134597.