

Case Note: Prosser and City of Bunbury

Nexus between a condition and the development

Prosser and City of Bunbury [2018] WASAT 41 considered the validity of a condition to require a contribution towards the cost of upgrading a footpath adjoining the development site. There is no development contribution plan for the area. The Tribunal determined that the condition is not in breach of reg 73(1) of the LPS Regulations as it “does not involve ‘a contribution for the provision of infrastructure or facilities for an area ...’ within the meaning of that sub-regulation.” The Tribunal also determined that the condition does not fairly and reasonably relate to the proposed development. The Tribunal was not satisfied that the proposed development would involve any greater use of the footpath and may result in less pedestrian use. In the absence of a sufficient nexus between the condition and the development, the condition was set aside.

The text in this update has been adapted from the case judgement, available [here](#)

A summary of key points, prepared by Kott Gunning, is available [here](#)