

KEMPSEY SHIRE COUNCIL

**Interim Transitional Arrangements - Kempsey Town Centre Public Domain
Section 94 Developer Contributions Plan (2010)**

Policy No. and Title	1.1	Development Control Policy
Procedure Town Centre Public	1.1.19	Interim Transitional Arrangements - Kempsey Domain Section 94 Developer Contributions Plan (2010)
Version	1	
Date Adopted	*****	

1 Introduction

This procedure has been adopted in accordance with the aims and objectives of Council's Development Control Policy 1.1 to set out the process for charging developer contributions under *Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan (2010)*, pending a review of Council's Section 94 developer contributions system.

2 Summary Statement of Intent

The following is a plain English summary of the contents and intent of this procedure to assist in interpretation.

This Procedure:

- a) Seeks to introduce interim transitional provisions for contributions payable under *Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan (2010)*, pending a review of Council's Section 94 developer contributions system.
- b) Applies to commercial development, being new buildings and extensions to existing buildings used or intended to be used for commercial purposes only, proposed within the area to which the *Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan (2010)* applies, and for which section 94 contributions under this plan are payable but have not yet been paid.
- c) Specifies the nominated date of commencement from which this Procedure takes effect.
- d) Provides for a concession of 90% of the amount of the contribution payable under *Kempsey Town Centre Public Domain Section 94 Developer Contributions Plan (2010)*.

3 Purpose of this Procedure

The purpose of this Procedure is to provide interim concessions for certain types of commercial development pending a review of Council's Section 94 developer contributions system.

4 Scope of this Procedure

- a) This Procedure sets out the process to be followed when determining contributions payable for commercial development under *Kempsey Town Centre*

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Public Domain Section 94 Developer Contribution Plan (2010), effective from the date of commencement of this Procedure until the repeal of that contribution plan.

- b) This Procedure only applies to commercial development that:
- (i) comprises of a new building or an extension/alteration to an existing building that is used or intended to be used for commercial purposes that are permissible on the land under Kempsey Local Environmental Plan 2013 (KLEP 2013); and
 - (ii) is on land to which the *Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan (2010)* applies.
- c) This Procedure applies to any of the following:
- (i) development applications lodged prior to the nominated date of commencement of this Procedure but not yet determined;
 - (ii) development applications lodged after the nominated date of commencement of this Procedure;
 - (iii) development consents issued before or after the nominated date of commencement of this Procedure and for which a construction certificate has not been issued;
 - (iv) complying development certificates not yet issued.
- d) Nothing in this Procedure shall be construed as applying to any development for which a construction certificate or complying development certificate has been issued prior to the nominated date of commencement of this Procedure.
- e) This Procedure does not apply to:
- (i) any contributions payable under any Water or Sewer Developer Servicing Plan pursuant to section 64 of the Local Government Act, 1993; or
 - (ii) any other development contributions that may be payable.

5 Nominated Date of Commencement

The nominated date of commencement of this Procedure is *****.

6 Implementation

- a) Where conditions of consent have been imposed requiring the payment of a monetary contribution in accordance with *Kempsey Town Centre Public Domain Section 94 Developer Contributions Plan (2010)*, **Council will accept payment equivalent to 10% of the amount specified in the consent (after indexation) as satisfaction of that condition.**

Background information:

- b) New buildings or extensions/alterations to existing buildings for commercial purposes that are permissible under KLEP 2013 require submission and approval of a development application and construction certificate or complying development certificate in accordance with the requirements of the

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Environmental Planning and Assessment Act, 1979 and Environmental Planning and Assessment Regulation, 2000.

- c) Section 109F of the Environmental Planning and Assessment Act, 1979, provides that a construction certificate must not be issued unless the requirements of the Environmental Planning and Assessment Regulation, 2000 have been met. Clause 146(b) and (c) of the Regulation provide that a construction certificate must not be issued unless conditions of consent have been met, including payment of any contributions.
- d) A complying development certificate states that development is complying development where it complies with all applicable development standards and other requirements prescribed by the Regulations. Section 85A (7) and (9) of the Act requires that the certifier issuing the complying development certificate must impose conditions requiring payment of contributions, where applicable, in accordance with the requirements of any contributions plan.
- e) *Kempsey Town Centre Public Domain Section 94 Developer Contributions Plan* (2010) requires payment of a cash contribution towards a specified public domain capital works schedule on a per square meter basis.

