

**COPY OF THE LATEST
OPEN SPACE
* ADOPTED ON 11 SEPT 2001.**

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1.0 INTRODUCTION

1.1 Background

This contributions plan specifies the contributions that Council may levy for the provision and embellishment of open space under *Section 94 of the Environmental Planning and Assessment Act, 1979*. Section 94 allows Council to levy charges to cover the costs of providing public facilities as a consequence of development within Kempsey Shire.

In accordance with the Department of Urban Affairs and Planning *Section 94 Contributions Plan Manual*, it is appropriate for Council to periodically review its' contributions plans.

This plan has been prepared following a comprehensive review of Councils' *Section 94 Contributions Plan for Outdoor Recreation 1993*.

The plan has also been prepared to satisfy the requirements of the Department of Urban Affairs and Planning *Section 94 Contributions Plan Manual*.

1.2 Citation

This plan may be referred to as the "*Section 94 Contributions Plan for Outdoor Recreation - 2001*".

1.3 Commencement

This plan was adopted by Council on 11th September 2001 and shall be effective from 25th September 2001.

1.4 Purpose of this Plan

The purpose of this plan is to indicate to prospective developers in Kempsey Shire the reasoning and procedures Council has adopted in determining the relevant charges for the provision and embellishment of open space in order to satisfy the requirements of Section 94 of the Environmental Planning and Assessment Act, 1979.

The plan:-

- identifies development to which the plan applies and when the plan takes effect;
- details how the contribution rates have been calculated;
- proposes a schedule of works within each local catchment and the estimated costs of these works;
- advises when contributions are to be paid;
- explains how Council will receive contributions and the way Council will review the plan;
- advises of Councils' accounting procedures for contributions; and
- advises of what Council intends to do with existing contributions held but not expended under the previous plan.

1.5 Scope of this Plan

This plan applies to the whole of the Kempsey Shire local government area. The plan applies to development that is likely to increase the demand for public open space and public recreational facilities.

1.6 Relationship to Section 94 Contributions Plan for Outdoor Recreation 1993

This plan repeals the *Section 94 Contributions Plan for Outdoor Recreation 1993*.

The *Section 94 Contributions Plan for Outdoor Recreation 1993* will continue to apply to existing development consents issued prior to the commencement of this plan.

2.0 NEXUS

The population of Kempsey Shire is estimated to increase to approximately 32,300 people by the year 2011. This growth is expected to occur within the main town and village centres. It is expected that the coastal towns and villages will experience most of the growth, however, the rural areas are expected to increase by about 1300 people in this period.

To both maintain the level of open space amenity enjoyed by the existing residents and also satisfy future recreational needs throughout the Shire, it is reasonable to expect the incoming population to contribute towards the acquisition and embellishment of open space.

The interrelationship between the Shires' future population growth and the demand for open space and associated facilities is detailed in this plan.

Residential development accounts for the majority of open space demand, however, rural residents also utilise facilities provided in towns and villages. Residents within smaller towns and villages also utilise larger district facilities provided in Kempsey.

This plan attempts to identify the likely patterns of usage within rural areas by identifying functional catchments based on proximity to local facilities, including physical access constraints.

This plan attempts to identify a range of facilities within the township of Kempsey that are intended to service the sporting and recreational needs of the entire district.

This plan also recognises that there is some demand placed on open space and associated facilities by tourists.

3.0 CALCULATION METHODOLOGY

Section 94 contributions are calculated on the basis of demand created by future development. The Shire has been divided into local catchments based on the likely patterns of usage of facilities provided throughout the Shire. (*See Appendix A*) Open space facilities to be provided within the life of this plan have been identified for each catchment. Cost estimates for the works have been made, including allowances for money spent in anticipation of future development, existing demand and monies held which were collected under the previous plan.

The contributions are also based on an analysis of occupancy rates having regard to Census data.

Equivalent tenement (ET) rates have been identified which reflect the relevant occupancy rates in each local catchment and which vary for each type of development. The (ET) rates for typical development types are listed below.

Subdivision	
Urban and rural land subdivision-	1 ET per additional lot created
Multi Dwelling Development	
One (1) bedroom unit-	0.33 ET
Two (2) bedroom unit-	0.66 ET
Three (3) bedroom + unit-	1 ET
Tourist Development	
Per room-	0.2 ET
Managers' residence-	at the applicable multi dwelling rate

Contributions are expressed on a per ET basis.

Contributions held by Council which were collected under the previous plan but not expended, have been carried over to this plan. These contributions will be spent on the works identified by this plan within the catchment from which they were originally collected. The amount of the contributions held within each catchment will be deducted from the total cost of providing those facilities.

Appendix B provides a breakdown of the contributions payable in each local catchment which have been determined as follows:-

$$\text{Contribution} = \frac{[(\text{DFF} \times \text{TDF}) + (\text{TLF} + \text{EXP90/01} - \text{ECH}) \text{S94RF}]}{\Delta \text{ET}}$$

Where:-

DFF = Contribution to District Facilities Factor

TDF = Total Cost of District Facilities

S94RF = Section 94 Responsibility Factor

TLF = Total Cost of Local Facilities

EXP90/01 = Expenditure from General Rates Revenue and Loans 1990-2001

ECH = Existing Contributions Held

Δ ET = Increased Equivalent Tenements

Example:-

One (1) additional lot subdivision, Kempsey

$$\text{Contribution} = \frac{[(0.49 \times \$3,063,659) + (\$359,000 + \$252,373 - \$78,218)] \times 0.078}{444}$$

$$= \frac{[(\$1,501,193 + (\$533,155))] \times 0.078}{444}$$

$$= \$357$$

4.0 **THE WORKS SCHEDULE**

The plan is supported by a works schedule which sets out proposed expenditure of contributions.

Appendix C summarises the proposed works schedule to 2011.

The Works Schedule was determined by an estimate of required facilities undertaken by Council in consultation with user groups and the general community.

The Works Schedule represents what Council considers to be a realistic program based on previous and expected future expenditure from general revenue and loan funds.

5.0 **WHEN ARE CONTRIBUTIONS TO BE PAID?**

Council will accept contributions in the following manner:-

- For subdivisions- prior to the issue of the Subdivision Certificate at the rate applicable at the time of payment.
- For other development- prior to issue of the Construction Certificate.

Deferred Payment of Contributions

Council may give consideration to allowing deferment of the payment of a contribution for subdivisions upon receipt of a written request from the developer.

The owner of the land which is to be subdivided will be required to enter into a Deed of Agreement with Council, at no cost to Council. The agreement will require a caveat to be registered on the title of the existing allotment, will make provision for Council to be paid the contribution when an allotment is sold and will be in a form which is a bar to transfer.

The amount of the contribution will be at the rate applying at the time of payment.

The plan of subdivision will be released upon registration of the caveat.

6.0 HOW ARE CONTRIBUTIONS RECEIVED AND VALUED?

Section 94 of the Environmental Planning and Assessment Act, 1979 provides that Council may receive contributions in the following forms:-

- As a *direct cash contribution*.
- As a *dedication of land* to the value (or part thereof) of the total cash contribution.
- By provision of a *material public benefit* to the estimated value (or part thereof) of a cash contribution.

Council will assess the contribution payable for the particular development and incorporate the amount in the development consent.

Where a developer proposes to provide land or carry out works as either full or part satisfaction of the required contribution, a planning and financial analysis will be required which addresses:-

- the physical suitability of the land to accommodate it's proposed recreational use, or any works required to make the land suitable for its' intended use;
- the accessibility of the land to it's intended user groups;
- the costs of services and works needed to improve the land to facilitate it's intended purpose;
- the costs offsets sought by the developer, including relevant calculations;
- details of any planning constraints likely to impact on the use of the land for it's intended use;
- the relationship of the offered land and/ or works to the development proposal and the Works Schedule for the relevant local catchment; and
- details of guarantees the developer may be prepared to provide to ensure that the public interest is not compromised due to unforeseen circumstances resulting in higher than expected costs into the future.

The required planning and financial analysis will form the basis of Councils' decision whether or not to accept the land or works as satisfying either full or part payment of a Section 94 contribution.

7.0 INDEXATION AND REVIEW OF THIS PLAN

Council will adjust the contributions on an annual basis which will be detailed in Council's Fees and Charges Schedule under its Management Plan. This adjustment will relate to the works component and will be on the basis of the *Materials Used in Building Other Than House Building Index* as published by the Australian Bureau of Statistics (or any other published index as may be adopted by Council from time to time) to ensure that contributions are protected in real terms and are not eroded by inflation.

Where a contribution is determined having regard to a land value component, that component will be reviewed within five (5) years based on a valuation prepared by a Registered Valuer.

In conjunction with these reviews, the plan will be monitored on an annual basis to ensure that the underlying assumptions are being realised. Factors to be considered in the regular reviews shall include:-

- The rate and distribution of new population growth;
- Forward financing strategies of Council and whether Council is meeting or exceeding its projected expenditure to achieve the Works Schedule;
- Any new information and knowledge Council may acquire which is relevant to this plan.

Glossary of Terms Used

Bedroom- means a room which is designated, used, or Council considers is capable of being used or adapted for sleeping.

Multi Dwelling Development- means dwellings that form part of a group of two (2) or more dwellings and may include dwellings commonly known cluster houses, residential flat buildings, villas, town houses, semi-detached homes, terrace houses, permanent caravan sites or the like whether or not it is intended to occupy such dwellings on a permanent basis.

Tourist Development- means any structures, buildings, caravan or campsites adapted to provide short term tourist accommodation.