

Section 94 Contribution Plan:  
Project Administration

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## INTRODUCTION

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### Section 94 Contributions – Summary

Section 94 (s.94) of the *Environmental Planning and Assessment Act (1979)* is a legislative mechanism permitting a Council to recover costs associated with the provision of infrastructure, facilities and/or services required within the local community owing to intensified demand due to development that results in increased population.

Increased population within an area intensifies demand on public infrastructure provided by Councils. Public infrastructure includes local roads and stormwater drainage, recreation and community facilities such as parks, community centres and libraries, and Council supported community service providers such as Surf Life Saving Associations and Emergency Services.

Section 94 guarantees that the provision of additional facilities to be provided is not borne disproportionately by Council and the existing community, by permitting Council to levy a contribution towards the part or full cost of facility provision on any development creating an intensification of demand.

The levy is incorporated within a **Section 94 Contribution Plan**, which authorises the collection of a levy for specified purposes, authorised within the Plan. The levy is calculated according to the demand generated, by either the number of new building lots being created in a subdivision, or the expected occupancy of the new lots. A contribution may be imposed on any form of development that creates additional demand including, residential, commercial, industrial and tourist development.

Additionally, the levy is calculated to provide protection to the development guaranteeing the costs of providing new facilities or infrastructure are equitably shared according to the development level.

There are significant legislative requirements and legal precedents governing plan preparation, management, monitoring and implementation. The contribution plans themselves require constant maintenance, including the detailed monitoring of development, financial management including calculation of contributions rates and expenditure priorities, indexation, reacting to legal precedent and formal review.

Council considers that costs involved with administering the developer contributions system are an integral and essential component of the efficient and effective provision of public services and amenities within the Kempsey Local Government Area (LGA). Council therefore considers it reasonable that the expenses directly related to the administration of the Section 94 Contribution Plans be recovered from developer contributions.

The calculation of contributions is determined from the cost of administration as a percentage of the total annual developer contributions received under the provisions of all contributions plans and development servicing plans in operation within the Kempsey LGA as explained in **Part B** of this plan. Council considers that the recovery of this oncost to manage developer contributions to be reasonable.

## PART A

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### A.1 Name of this Contribution Plan

This Contribution Plan is known as;

**Kempsey Shire Council  
Section 94 Developer Contribution Plan: Project Administration**

### A.2 Purpose of this Contribution Plan

This Plan is prepared in accordance with the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and *Environmental Planning and Assessment Regulation 2000*.

This Legislation permits Council to place conditions to consents that can require persons, corporations or other organisations undertaking a specific development to make a monetary or in kind contribution, towards the provision of public infrastructure and community facilities that are identified as being required to meet the need of the community as a result of that development.

This Contribution Plan has the following aims and objectives:

- To determine an equitable and fair contribution rate for the Administration of Section 94 Contribution Plans
- To recover the fair and reasonable direct costs incurred by Council in the development, assessment, administration, monitoring and review of the s.94 program.
- To ensure the existing community is not financially disadvantaged by the need to provide additional services for the administration of the s.94 program in the Council area
- To formulate a comprehensive and definitive strategy for the assessment, collection, accounting, expenditure, reporting and review of developer contributions
- To develop a mechanism to deliver the community a service or facility to an acceptable and appropriate level within a reasonable timeframe
- To meet and satisfy the requirements of the *EP&A Act* and *Regulation*

### A.3 Land to Which this Contribution Plan Applies

This Contribution Plan applies to all land within the Local Government Area of:

- **Kempsey Shire Council**

A.4 Development to Which this Contribution Plan Applies

This Plan applies to all development occurring within the areas identified in (A.3) Land to which this Contribution Plan Applies, and which requires a Development Application to be submitted to the Council, and which is subject to payment of Developer Contributions in accordance with any Contributions Plan approved by Kempsey Shire Council.

A.5 Relationship to Other Plans

This Contribution Plan relates to all Section 94 Contribution Plans currently adopted and in operation in the Kempsey Shire Local Government Area (LGA).

These documents are indexed in Appendix 1

A.6 Performance and Review of this Contribution Plan

This Contribution Plan is based on specific assumptions concerning predicted levels of development and each member Councils administrative costs. The performance of this Plan, in meeting the objectives of:

- providing effective support for the administration of the Section 94 program
- meeting the needs of new development
- ensuring the income from contributions are providing effective and efficient administration of the S94 program,

will require a regular process of review, which should be undertaken within five (5) years of commencement

A.7 Date of Commencement of this Contribution Plan.

This Contribution plan was adopted at Councils Ordinary Meeting of 10<sup>th</sup> July 2007.

This Plan is effective from 10<sup>th</sup> August 2007, the date the Notification of Adoption was published in local newspapers.

This Plan applies to all Development Applications determined on and after this date.

A.8 Duration of this Contribution Plan

The duration of this Contribution Plan is five (5) years from the date of commencement.

Services to be provided are described in Part D.1 Works Schedule.

**PART B**

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**B.1 Operation of the Contribution Plan**

In the determination of a Development Application, a condition may be imposed by Council requiring a monetary contribution according to the provisions of this Contributions Plan.

The Plan applies to all development that will create a potential increase in demand for public amenities, infrastructure and services identified in member Councils Section 94 Contribution Plans.

**B.2 The Contribution Formulae**

The contribution rate is calculated by determining the cost of administering Section 94 plan preparation and accounting for each member Council as a percentage of the total annual income from all development contributions.

$$\text{Contribution Rate (CR\%)} = \frac{\text{Tca} \times \text{t\%}}{\text{Tpi}}$$

Where: Tca = total cost of administration  
 Tpi = estimated total annual income derived from S94 contributions  
 t% = estimated apportioned time/resource on S94  
 Ca = administration contribution

<b>Worked Example:</b>	
Tca - Total cost of administration for S94/yr.	= \$116,000
Total apportioned cost of administration per yr/Council	= $\frac{\$116,000}{3}$
	= \$38,666.00
Tpi – Estimated total annual S94 income (based on actual income from previous year)	= \$554,000
t% = 100%	
= 1	
CR% = $\frac{\$38,666 \times 1}{\$554,000}$	
= 0.06	
= 6%	
Average weighted contribution	= \$6,869.000
Ca = \$6,869.00 x .06	
	= \$412.14
Total S94 Contribution including administration levy	= \$6,869.00 + \$412.14
	= \$7,281.14

B.3 When Contributions are Payable

- Where the Contribution relates to Development Applications involving Subdivision the Contribution is payable prior to the release of the Subdivision Certificate.
- Where the Contribution relates to Development Applications involving Building Approvals, the contribution is payable prior to release of the Building Construction Certificate.
- Where the Contribution relates to Development Applications where no building approval is required, the Contribution is payable prior to occupation or use.

B.4 Exemptions and Deferments

In respect to subdivisions, Council will consider the deferment of payment of contributions, subject to the following: -

- a. The owner of the land shall enter into a Deed of Agreement with Council and at no cost to Council.
- b. The agreement shall be registered in the form of a caveat on the title of the englobo allotment.
- c. The agreement shall provide for payment of the deferred contribution at the rate applicable at the time of payment.
- d. The caveat shall be in a form that acts as a bar to transfer of ownership of any lot within the subdivision unless Council has provided its agreement to remove the caveat.
- e. Council's agreement to removal of the caveat will be provided upon receipt of payment of the deferred contributions in accordance with the terms of the Deed of Agreement.

## **PART C**

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### **C.1 Nexus**

The ongoing development and maintenance of Councils Section 94 Contribution Plans requires the direction of significant resources towards the program to ensure the continued relevance, accuracy and compliance in meeting the Legislative requirements of the Act and the needs and expectations of the community.

The ongoing provision of infrastructure and facilities under the S94 program is dependent on the sound administration and performance monitoring of Councils Section 94 Contribution Plans.

The legislative and administrative functions required to support and maintain the section 94 program include:

- Preparation, administration and review of planning and design studies
- Development of Contribution Plans and attendant policy documentation
- Review of Contribution Plans
- Financial management and accounting of collection, scheduling and expenditure of contributions
- Development of Project and Works Schedules
- Administration of Works in Kind Agreements
- Community consultation
- Reporting and performance monitoring.
- Annual Reporting

Kempsey Shire Council has employed a Section 94 Project Coordinator whose sole role is to undertake these functional tasks and to ensure they are executed effectively.

This position is accountable to the Section 94 Management Group.

The cost of managing the Section 94 Program for Council is apportioned as being 100% of the Coordinators salary and costs, being a total of \$38,666/pa.

### **C.2 Causal Nexus**

Causal nexus requires the demonstration that the need of a facility or service being subject of the Levy is a direct result of the subject development.

The development of a Contribution Plan places an obligation on Council to provide resources that can effectively manage, administer and monitor the performance of the plan.

Council further has an obligation to review, update and amend the Contribution Plans to guarantee and maintain the operational relevance of the program, and when necessary identify and prepare new Contribution Plans to meet the future needs of the community.

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It is clearly demonstrated that the costs associated with the administration and management of the contribution plan program is directly related to the demands of development, and that this Contribution Plan is required to continue effective administration and management of the s.94 program.

### C.3 Future Growth

The Kempsey Shire continues to experience an uneven yet sustained population growth through increased residential and tourist oriented development.

Council has identified target areas where future growth is to occur and be subject to increased demand for public infrastructure, facilities and services. Given the current trends in new housing starts the areas of highest growth will continue to occur in close proximity to the coast and established town centres.

South West Rocks will retain strong residential and tourist oriented growth. The established township of Kempsey will continue to experience growth in the residential sector through limited release of new residential subdivisions and increased infill within established communities.

This Contribution Plan will levy residential and commercial development.

**PART D**

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D.1 Work Schedule and Contribution Rate

Work Schedule

<b>Item</b>	<b>Description</b>	<b>Cost over Life of Plan</b>	<b>%s.94</b>	<b>Date</b>
1	Section 94 Project Coordinator	\$193,330 over 5 years	100	2007 - 2012

Contribution Rate

<b>Item</b>	<b>Description</b>	<b>Rate %</b>	<b>Calculation</b>
1	All Development	6%	Calculated on subtotal of payable contributions

## APPENDIX A

### s.94 Developer Contribution Plans

- *Section 94 Plan for Off-Street Carparking* - Details the method for determining contributions towards carparking for commercial development in the Shire's towns and villages. (*Currently under review based on surveys of parking needs of each town and village to which the plan relates*)
- *Section 94 Contributions Plan for Outdoor Recreation*- Details the method for determining contributions for the embellishment of open space.
- *Section 94 Plan for Stormwater Drainage: South West Rocks*- Identifies proposed trunk drainage system works and the method for determining contributions.
- *Section 94 Plan for Trunk Stormwater Drainage: Belle O'Connor Catchment*- Identifies proposed trunk drainage system works for the Belle O'Connor catchment to protect water quality entering Saltwater Lagoon and the method for determining contributions.
- *Section 94 Plan for the Belle O'Connor Catchment Distributor Road*- Details the method for determining contributions towards the Belle O'Connor distributor road, including the roundabout on Gregory Street.
- *Development Servicing Plan for Water Supply*- Details the method for determining contributions for water supply headworks augmentation and reticulation.
- *Development Servicing Plan for Sewerage*- Details the method for determining contributions for sewerage headworks augmentation and reticulation.
- *Section 94 Rural Roads Developer Contribution Plan 2000*- Details the method for determining contributions towards the upgrading and maintenance of the Shires rural road network.
- *CBD - Woolworths - McDonalds Precinct Developer Contribution Plan*- Details the method for determining contributions towards acquisition of land and construction of the roundabout at the intersection of Smith and Stuart Streets, Kempsey.

#### Development Control Plans relevant to this Plan

- *DCP No 1 – Crescent Head Road – South-East Kempsey* - relates to subdivision of rural residential land.
- *DCP No 2 – Arakoon Road* - includes matters relating to subdivision of rural residential areas at Arakoon.

- *DCP No 3 – River Meadows* - relates to subdivision of rural residential land.
- *DCP No 4 – Aldavilla* - relates to subdivision of rural residential land.
- *DCP No 5 – Fishermans Reach* – relates to residential subdivision in the village of Fishermans Reach.
- *DCP No 6 – Verges Swamp Road* - relates to subdivision of rural residential land.
- *DCP No 8 – Frederickton Village* – relates to the provision of parking to service shops in the village so as to reduce conflict with highway traffic.
- *DCP No 9 – South West Rocks and Spencerville* – sets the principles for establishing a road hierarchy in the Spencerville area.
- *DCP No 12 – Stuarts Point* - identifies development precincts, including matters to be addressed in any subdivision.
- *DCP No 13 – Manufactured Home Estates and Caravan Parks* – specifies additional design and location requirements for manufactured home estates and caravan parks intended to be occupied on a long term basis.
- *DCP No 14 – Greenhill Aboriginal Corporation and Warwick Park Estates* – provides for subdivision layouts of land in the Greenhill area.
- *DCP No 15 – Saleyards Road, Tennessee* – relates to rural-residential subdivision in the Saleyards Road area.
- *DCP No 16 – John Lane Road, West Kempsey* - relates to rural-residential subdivision in the John Lane Road area.
- *DCP No 17 – Kemps Access, Collombatti* - relates to rural-residential subdivision in the Kemps Access area.
- *DCP No 18 – Kundabung, West of Pacific Highway* - relates to rural-residential subdivision in the Smiths Creek Road area.
- *DCP No 19 – Crescent Head Road, Near Beranghi Road* - relates to rural-residential subdivision in the Crescent Head Road, near Beranghi Road area.
- *DCP No 20 – Wortley Drive Off Beranghi Road* –relates to rural-residential subdivision in the Wortley Road off Beranghi Road area.
- *DCP No 21 – Dulconghi Heights 2001* - relates to rural-residential subdivision in the Dulconghi Heights Estate.
- *DCP No 22 – Local Housing Strategy (Urban Areas)* - identifies performance objectives and development standards related to residential development in the Shire's urban areas.
- *DCP No 23 – Central Business District, Woolworths-McDonalds Precinct* – provides for rationalisation of access, flooding and parking requirements for development from Woolworths to McDonalds facing Smith Street, Kempsey.

- *DCP No 28 – Leasing of Public Areas for Restaurants and Cafes* – specifies Council's requirements related to the leasing of public areas for restaurants and cafes.
- *DCP No. 29- Bed & Breakfast Accommodation* - specifies Council's parking, health and fire safety requirements for B&Bs.
- *DCP No. 34 - South West Rocks Town Centre* - incorporates development standards for implementation of the South West Rocks Town Centre Master Plan, including relevant requirements of DCP 22.
- *DCP No. 36 - Engineering Guidelines for Subdivision and Development* - specifies Council's minimum requirements for subdivision design and construction.
- *DCP No 37 – Hat Head* – Specifies development standards and incorporates a servicing strategy following connection of the village to a reticulated sewerage system

Other Council codes and policies relevant to this Plan include:

- *Parking Code*- Specifies Council's parking requirements for various types of development, including commercial, residential development.

APPENDIX B

B.1 Map of Contribution Catchment

