

Shire of Coolamon

Section 94 Contribution Plan

September 1994

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EXECUTIVE SUMMARY

Under the Environmental Planning and Assessment Act 1979, Section 94 (s.94) grants local Councils the power to levy contributions from developers for public services and public amenities required as a consequence of development. This power relies on there being a clear link or nexus between the development being levied and the need for the public service or public amenity for which the levy is being required.

Prior to levying a contribution, Council must have a Contributions Plan. The Contributions Plan (CP) is a public document detailing Council's policy regarding s.94. It includes details of anticipated increased demand for public services and amenities for which developer contributions will be sought. The CP includes contribution formulae, current contribution rates and a works schedule. No changes are to be made to this plan other than the prescribed indexing without public involvement.

The plan applies to all land within the Local Government Area of the Shire of Coolamon. The classifications of development which are exempt from the application of this plan are:

- Existing vacant residential lots (except where subdivision is involved or land included in Coolamon peripheral area).
- A change of land use not involving the creation of additional lots, dwellings, floor space or increase in traffic generation.
- Rural or farming enterprises which do not result in an increase in the demand for public services or facilities, or do not have significant increase in traffic generation.

The need to provide/upgrade infrastructure has been examined for roads, drainage and open space which are outlined below. Contributions for water supply and sewerage infrastructure are not permissible under s.94.

ROADS

Coolamon Peripheral Area - Defined by Appendix 1

S.94 contributions for road upgrading required as a result of dwelling construction within that area defined by Appendix 1 will be sought on the basis of a per lot contribution based on the following formula:-

$$\begin{aligned}\text{Per Lot Contribution} &= C \times ((TL - EH)/TL)/NL \\ &= C/TL\end{aligned}$$

Where:

- Per Lot Contribution = The per lot contribution paid by the developer for each additional lot or dwelling right created from a holding.

- C = The cost of the work including interest on loans but not including subsidies.
- EH = The total number of existing holdings within the area defined by Appendix 1.
- TL = The total number of lots permissible within the area defined by Appendix 1.
- NL = Potential number of additional lots or dwelling rights created from existing holdings = TL - EH.

The base contribution, tied to the CPI is \$1801 per lot, derived from the Works Programme detailed in Appendix 2.

Uses other than residential will be assessed in terms of the traffic impact of the development compared with the impact of one dwelling.

Traffic Generating Developments

S.94 Contributions for road upgrading required as a result of development outside that area defined by Appendix 1 will be sought on the basis of the following formula:-

$$\text{Contribution} = C \times NT / (ET + NT)$$

Where:

- Contribution = The s.94 contribution required to be paid by the developer.
- C = The cost of the roadworks including interest on loans but not including any subsidies.
- NT = The estimated volume of new traffic after the development is operative.
- ET = The estimated volume of existing traffic.

DRAINAGE

The formula for urban drainage is as follows:-

$$\text{Per Lot Contribution} = C \times (NL / (EL + NL)) / NL$$

Where:

- Per Lot Contribution = The contribution sought from the developer for each additional lot created.

- NL = The number of new lots created which are in the drainage catchment.
- EL = The number of existing lots which are in the drainage catchment.
- C = The cost of the work including interest on loans but not including subsidies.

Council would only seek contributions under this clause for development requiring significant drainage works.

PUBLIC OPEN SPACE

The formula for acquisition of land for Public Open Space is as follows:-

$$\text{Total Contribution} = L/P$$

Where:-

- Total Contribution = The contribution payable by the developer
- L = The cost of the land to be acquired.
- P = The population increase to be served by the open space.

Council may require the dedication of land as open space rather than a monetary contribution.

Council would only seek contributions under this clause for development requiring significant works.

1.0 INTRODUCTION

1.1 Background

The Shire of Coolamon is predominantly a rural area largely relying upon agriculture for its livelihood. With the exception of the townships of Coolamon and Marrar, the population growth is static or declining, reflecting the ageing farming population, rural recession, improved farm mechanisation and drift of younger adults to larger centres. Growth in Coolamon and Marrar can in part be attributed to their proximity to Wagga Wagga.

However, the potential exists for development to occur which would impact upon and require upgrading of infrastructure.

A Section 94 (s.94) Contributions Plan is required to permit Council to seek contributions from developers to fund the developer's share of that impact.

1.2 Costs of Development and Methods of Funding

The provision and maintenance of infrastructure involves two costs:

- 1) Capital Costs - the direct cost of providing the service, eg: the cost to build the road.
- 2) Recurrent costs - the cost to maintain the service, eg: grade gravel road or reseal sealed road.

Capital costs of projects are appropriate s.94 Contributions Plan (CP) items. It is an accepted principle that recurrent costs for normal maintenance are appropriately funded by rates, loans, grants and levies. However, above average maintenance costs, eg: quarry haul roads, are acceptable for funding by the developer by contributions under s.94.

1.3 Council's Powers Under Section 94

Under the Environmental Planning and Assessment Act 1979, s.94 grants local Councils the power to levy contributions from developers for public services and public amenities required as a consequence of development. This power relies on there being a clear link or nexus between the development being levied and the need for the public service or public amenity for which the levy is being required.

The court has verified s.94 as the exclusive source of power for levying monetary or land contributions under the Act. It has clearly indicated that contributions sought under other provisions of the Environmental Planning and Assessment Act 1979 (eg: by way of a condition of consent imposed under s.91 are not lawful.

Under s.94(1), a Council can impose a condition requiring the dedication of land free of cost, or the payment of a monetary contribution.

Under s.94(2A), Councils are permitted to recoup the cost of public services or amenities provided in advance of, or to facilitate, new development.

Councils may also accept the dedication of land or the provision of "material public benefit" in part or full satisfaction of a condition imposed under s.94(1) or (2A), through provisions under s.94(2C).

The court has established the following principles for testing the validity of a consent condition requiring a s.94 contribution.

- * The contribution must be for, or relate to, a planning purpose;
- * The contribution must fairly and reasonably relate to the subject development;
- * A contribution must be such as a reasonable planning authority, duly appreciating its statutory duties, would have properly imposed.

These principles are fundamental to the proper administration of s.94 and emphasise the importance of "reasonableness", both in terms of the services for which contributions are being sought and the actual level of contributions required to help provide them.

1.4 Changes to the Act

The Environmental Planning and Assessment (Contributions Plans) Amendment Act 1991 amended the Environmental Planning and Assessment Act 1979 in the following ways:

Firstly, in relation to s.94(3) Council's obligations regarding interest earned on contributions have been clarified. Reference to monies held "in trust" has been removed.

Secondly, s.94(7) requires that Councils must have a Contributions Plan in place before a contribution can be levied.

Thirdly, s.94AA defines the powers of the Minister or Director when imposing conditions under s.94.

2.0 THE SECTION 94 CONTRIBUTION PLAN

2.1 The Purpose of the Plan

The Contributions Plan (CP) is a public document detailing Council's policy regarding s.94. It includes details of anticipated increased demand for public services and amenities for which developer contributions will be sought. The CP includes contribution formulae, current contribution rates and a works schedule. No changes will be made to this plan other than the prescribed indexing without public involvement.

2.2 Aims and Objectives

The aims and objectives of the plan are:-

- a) To provide a basis for levying developer contributions;
- b) To identify the amenities and services which Council intends to provide;
- c) To establish a nexus between anticipated development and contributions sought;
- d) To enable the early provision of facilities and services;
- e) To encourage public participation in the formulation of the plan;
- f) To provide the development industry with early advice as to the amount of contribution which will be required for a particular development;
- g) To facilitate proper financial management and accountability for expenditure of contributions received.

2.3 Relationship to Environmental Planning Instruments

The plan enables the levying of developer contributions specified for land uses permissible under the Shire of Coolamon Environmental Plan.

2.4 Land to Which Plan Applies

The plan applies to all land within the Local Government Area of the Shire of Coolamon.

2.5 Exemptions

The classifications of development which are exempt fro the application of this plan are:-

- * Existing vacant residential lots (except where subdivision is involved) or land included in Coolamon peripheral area.
- * A change of land use not involving the creation of additional lots, dwellings, floor space or increase in traffic generation.
- * Rural or farming enterprises which do not result in an increase in the demand for public services or facilities.

3.0 EXISTING INFRASTRUCTURE

3.1 Water Supply

Water supply is not the responsibility of Coolamon Shire Council. The provisions to seek contributions for water supply have been removed from s.94. Provisions exist under the Water Supply Authorities Act 1987.

3.2 Sewerage

As with water supply, the provisions to seek contributions for sewerage infrastructure have been removed from s.94. Provisions exist under the Water Supply Authorities Act 1987.

3.3 Roads

Council's existing road network generally satisfies existing needs. Current works programmes largely provide for existing demands. However, the potential exists for residential infill development in existing urban areas, development in areas proposed to be rezoned rural small holdings, and perhaps most importantly, high impact development in locations unknown, eg: quarries and feedlots.

3.4 Public Reserves

Existing public reserves are considered to be adequate.

3.5 Drainage

Existing drainage infrastructure is considered to be adequate for existing population.

4.0 FUTURE DEVELOPMENT NEEDS

4.1 Introduction

Growth in the Council area is static or declining with the exception of Coolamon and Marrar. Potential rural developments may include quarries and feedlots at sites unknown. This potential is examined below.

4.2 Towns and Villages

No urban growth is anticipated at Beckom, Ardlethan, Matong or Ganmain.

Urban growth in Marrar is anticipated to be minor and at this time not create a need for additional amenities and services requiring s.94 contributions.

Urban growth in Coolamon is expected to continue slowly generating the need for road upgrading.

Other amenities and services applicable to s.94 are considered to be adequate for the foreseeable future.

4.3 Rural

4.3.1 Small Holdings 1(c)

1(c) zonings occur on the outskirts of towns/villages. Only the township of Coolamon is anticipated to have growth in the 1(c) area which will impact upon the need for upgrading of roads sufficient to warrant s.94 contributions.

4.3.2 General Rural 1(a)

Rural development impacting upon the need for amenities and services is anticipated to be confined to such uses as feedlots and quarries. Such developments will require road upgrading. Higher than normal road maintenance costs may also result for which s.94 contributions can also be sought.

5.0 CALCULATION OF S.94 CONTRIBUTIONS

5.1 Introduction

This section details the method by which s.94 contributions would be calculated for the various functions although it is proposed that only the roads function will be applied.

5.2 Roads

5.2.1 Coolamon Peripheral Area - Defined by Appendix 1

S.94 contribution for road upgrading required as a result of dwelling construction within that area defined by Appendix 1 will be sought on the basis of a per lot contribution based on the following formula:-

$$\begin{aligned}\text{Per Lot Contribution} &= C \times ((TL - EH)/TL)/NL \\ &= C/TL\end{aligned}$$

Where:

- Per lot contribution = the per lot contribution paid by the developer for each additional lot or dwelling right created from a holding.
- C = the cost of the work including interest on loans but not including subsidies.
- EH = the total number of existing holdings within the area defined by Appendix 1.
- TL = the total number of lots permissible within the area defined by Appendix 1.
- NL = Potential number of additional lots or dwelling rights created from existing holdings = TL-EH.

The base contribution, tied to the CPI is \$1801 per lot, derived from the Works Programme detailed in Appendix 2.

Uses other than residential will be assessed in terms of the traffic impact of the development compared with the impact of one dwelling.

5.2.2 Traffic Generating Developments

S.94 Contributions for road upgrading required as a result of development outside that area defined by Appendix 1 will be sought on the basis of the following formula.

$$\text{Contribution} = C \times \text{NT} / (\text{ET} + \text{NT})$$

Where:

- Contribution = the s.94 contribution required to be paid by the developer.
- C = the cost of the roadworks including interest on loans but not including any subsidies.
- NT = the estimated volume of new traffic after the development is operative.
- ET = the estimated volume of existing traffic.

5.3 Drainage

The formula for urban drainage is as follows:-

$$\text{Per Lot Contribution} = C \times (\text{NL} / (\text{EL} + \text{NL})) / \text{NL}$$

Where:

- Per Lot Contribution = the contribution sought from the developer for each additional lot created.
- NL = the number of new lots created which are in the drainage catchment.
- EL = the number of existing lots which are in the drainage catchment.
- C = the cost of the work including interest on loans but not including subsidies.

5.4 Public Open Space

The formula for acquisition of land for Public Open Space is as follows:-

$$\text{Total Contribution} = L/P$$

Where:

- Total Contribution = the contribution payable by the developer.

- L = the cost of the land to be acquired.
- P = the population increase to be served by the open space.

Council may require the dedication of land as open space rather than a monetary contribution.

5.5 Allowance for Inflation

Contributions will be tied to the "Average Eight Capital Cities CPI" and will be varied quarterly. The current index is 111.2, effective until 26th October, 1994.

6.0 PAYMENT OF CONTRIBUTIONS

6.1 Standard Payments

Contributions are required to be paid as follows:-

- Development Applications (DA's) involving subdivision - prior to the release of the plan of subdivision.
- DA's involving Building Applications (BA's) - prior to the approval of the BA.
- DA's where no building approval is required - prior to commencement of works.

6.2 Special Alternative Arrangements

Council will consider alternative arrangements for payment upon receipt of a written application. For example, for subdivision, lodgement of a Bank Guarantee prior to the release of the plan of subdivision with payment due at time of sale or within two years, whichever, comes first. The size of the contribution would influence Council's decision.

7.0 ACCOUNTABILITY

7.1 Accounting for Contributions

Council will establish an identifiable account for the management of s.94 contributions. Interest earned on funds held will be credited to that account.

7.2 Contributions Register

Council will maintain a register in accordance with Clause 41M of the Regulation which records:

- a) Particulars sufficient to identify each development consent in respect of which such a condition has been imposed.
- b) The nature and extent of the contribution required by the condition in relation to each public amenity or service.
- c) The name of the contributions plan in accordance with which the condition was imposed.
- d) The date or dates on which any contribution or part of a contribution required by the condition was received and its nature and extent.

The register will be available for public inspection at any time during normal office hours.

7.3 Annual Statement

Council will produce an Annual Statement after the end of each financial year in accordance with Clause 41N of the Regulation. The statement will be available for public inspection at any time during normal office hours.

8.0 SAMPLE CALCULATIONS OF S.94 CONTRIBUTIONS

8.1 Application for Dwelling Rights Within Coolamon Peripheral Area (i.e. No Subdivision)

- **Development:**

A developer proposes to have dwelling rights for each portion in an existing holding comprising five (5) portions.

- **Assessment:**

A one portion discount applies to the existing holding (irrespective of whether or not a dwelling exists).

The per portion contribution = $\$1801 \times \text{Current CPI}/11.2$

If , at the time of assessment, the CPI had increased to 113.7, the per portion contribution would be:

$$\$1801 \times 113.7/111.2 = \$1841.49 \text{ per lot}$$

The total contribution is payable for 4 portions.
Total Contribution = $4 \times 1841.49 = \$7365.96$

- **Condition of Development Consent:**

A contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 is required to address the traffic impact of the development. The required contribution is \$7365.96 comprising four (4) portions @ \$1841.49 per lot. The contribution is tied to the CPI, currently 113.7, effective until The contribution is payable prior to approval of the building application.

8.2 Subdivision Within Coolamon Peripheral Area

- **Development:**

A subdivider proposes to subdivide an existing holding comprising 3 portions into 6 lots.

- **Assessment:**

A one lot discount applies to the existing holding (irrespective of whether or not a dwelling exists).

The per lot contribution = \$1801 x Current CPI/111.2

If, at the time of assessment, the CPI had increased to 113.7, the per lot contribution would be:

$$\text{\$1801} \times 113.7/111.2 = \text{\$1841.49 per lot.}$$

The total contribution is payable for 5 lots.

$$\text{Total Contribution} = 5 \times 1841.49 = \text{\$9207.45}$$

- **Conditions of Development Consent:**

A contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 is required to address the traffic impact of the development. The required contribution is \$9207.45 comprising (5) lots @ \$1841.49 per lot. The contribution is tied to the CPI, currently 113.7, effective until The contribution is payable prior to release of the plan of subdivision.

8.3 Traffic Generating Development Within Coolamon Peripheral Area

- **Development:**

A developer proposes to construct a factory warehouse on an existing lot. No dwelling is proposed by the developer at this time. The developments anticipated to generate 10 trips per day.

- **Assessment:**

Assume RTA guideline of 7 trips per day for low density residential dwelling. The proposed development therefore has an impact of $10/7 = 10/7 = 1.4$ dwellings. Assume CPI has increased to 113.7.

$$\text{The contribution} = 1.4 \times 1801 \times 113.7/111.2 = \text{\$2578.09}$$

- **Condition of Development Consent:**

A contribution under the provisions of Section 94 of the Environmental Planning and Assessment act 1979 is required to address the traffic impact of the development. The required contribution is \$2578.09, tied to the CPI, currently 113.7, effective until The contribution is payable prior to approval of the Building Application.

8.4 Traffic Generating Development in Rural Area

- **Development:**

A developer proposes to operate a feedlot accessed via a lightly gravelled public road 600m long. The road needs to be upgraded to Council's sealed rural road standard. Traffic volume is anticipated to increase for the existing 30 vehicles per day to 70 vpd.

- **Assessment:**

The estimated cost of works is \$60 per lineal metre.

$$C = 600 \times 60 = \$36,000$$

$$ET = 30$$

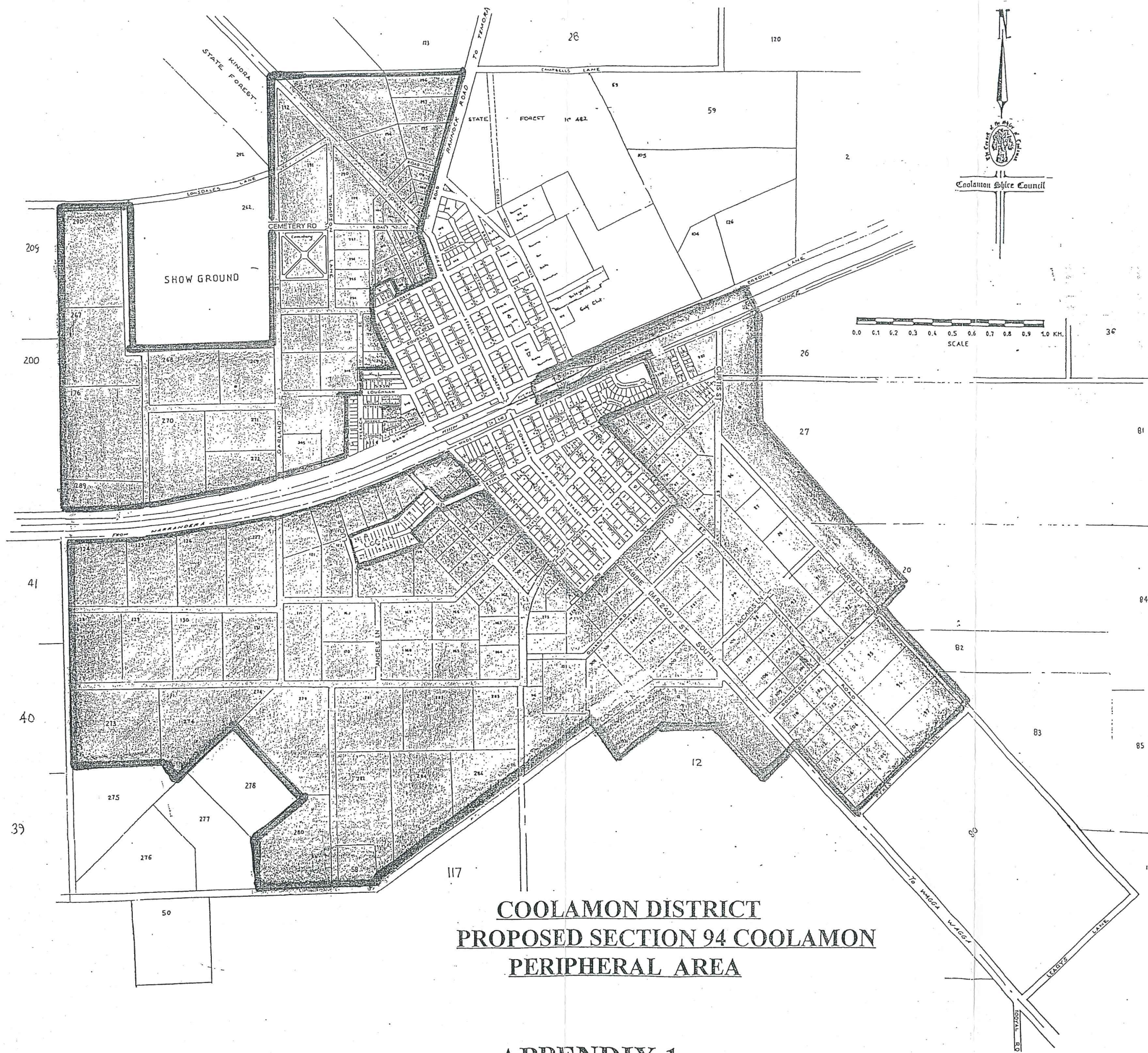
$$NT = 40$$

$$\begin{aligned}\text{Contribution} &= C \times NT / (ET + NT) \\ &= 36,000 \times 40 / 70 \\ &= \$20,570\end{aligned}$$

- **Condition of Development Consent:**

A contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 is required for the upgrading of Smiths Road from Main Road 240 to the proposed development entrance to Council's sealed rural road standard. The required contribution is \$20,570, effective for three (3) months, thereafter tied to the CPI. The contribution is payable prior to approval of the Building Application.

COOLAMON SHIRE SECTION 94 CONTRIBUTION PLAN - ROADS									
CAT 1 = UNFORMED			35	EQUALS COST TO UPGRADE FROM CAT 1 TO CAT 2					
CAT 2 = FORMED			33	EQUALS COST TO UPGRADE FROM CAT 2 TO CAT 3					
CAT 3 = FORMED AND GRAVELLED			28	EQUALS COST TO UPGRADE FROM CAT 3 TO CAT 4					
CAT 4 = SEALED									
ROAD	FROM/TO	EXIST CAT	EXIST VALUE \$/M	P'POSED CAT	P'POSED VALUE \$/M	ROAD LENGTH	UPGRADE COST \$/M	TOTAL COST	PRIORITY
DEVLIN ST	LUCAS ST-IVERACH ST	3	68	4	96	800	28	22400	1
DOUBLEDAY LN	MR240-LEARYS LN	3	68	4	96	800	28	22400	2
WATTLE RD	LOT 103/104-McCAIGS LN	3	68	4	96	720	28	20160	3
BREDINS LANE	GHA- EASTERLY	2	35	4	96	400	61	24400	4
CURTIS ST	WATTLE RD-LEARYS LN	1	0	3	68	520	68	35360	5
QUARRY RD	LOT 133/302-MR240	2	35	4	96	500	61	30500	5
WATTLE RD	McCAIGS LN-ORR ST	2	35	4	96	680	61	41480	6
MIRROOL ST	CEMETERY RD-DUNROBIN ST	2	35	4	96	350	61	21350	7
WALLACE ST	CEMETERY RD-DOUGLAS ST	2	35	4	96	650	61	39650	8
ORR ST	WALLACE ST-MR240 - WATTLE	2	35	4	96	670	61	40870	9
CEMETERY RD	WALLACE ST - MR240	2	35	4	96	225	61	13725	10
DEVLIN ST	GARLAND STH-LUCAS ST	1	0	2	35	380	35	13300	11
COOPERS LN	MR240- 600M WESTERLY	2	35	4	96	650	61	39650	12
IVERACHS LN	REAR SH'GND RD-GARLAND S	2	35	3	68	670	33	22110	13
LUCAS ST	DEVLIN ST-LOGAN ST	3	68	4	96	260	28	7280	14
LUCAS ST	LOGAN ST-MR243	2	35	3	68	330	33	10890	15
McCAIGS LN	MR240-LEARYS LN	1	0	3	68	800	68	54400	16
REAR SH'GND RD	MANN ST-IVERACHS LN	1	0	2	35	550	35	19250	17
ANGELS LN	JERRICKS LN-DEVLIN ST	2	35	3	68	450	33	14850	18
GARLAND ST	MANN ST-IVERACHS LN	1	0	2	35	440	35	15400	19
COOPERS LN	MR240-MR543	2	35	3	68	650	33	21450	20
UNAMED STREET	STINSON - BOOTH	1	0	4	96	190	96	18240	21
CURTIS ST	LEARYS LN-BOOTH ST	2	35	4	96	190	61	11590	22
IVERACH ST	DUNROBIN ST-SOUTH	2	35	3	68	320	33	10560	23
QUARRY RD	MR240-WATTLE RD	2	35	3	68	380	33	12540	24
LEARYS LN	DOUBLEDAY LN-CURTIS ST	2	35	3	68	850	33	28050	25
QUARRY RD	MR543-LOT 133/302	2	35	3	68	330	33	10890	26
THOMPSONS LN	MR240-END CEMETERY SEAL	2	35	3	68	730	33	24090	27
REAR SH'GND RD	IVERACHS LN-DOGLEG	2	35	3	68	300	33	9900	28
JERRICKS LN	ANGELS LN-GARLAND ST STH	2	35	3	68	610	33	20130	29
CEMETERY RD	THOMPSONS LN-WALLACE ST	2	35	3	68	225	33	7425	30
	EXISTING HOLDINGS	125							
	POTENTIAL LOTS	380			TOTAL M.	10850	TOTAL COS	\$684,290	
	NEW LOTS/DWELLINGS	255							
	% FUNDED BY DEVELOPER	67.1							
	PER LOT CONTRIBUTION (C/PL	\$1,801							



**COOLAMON DISTRICT
PROPOSED SECTION 94 COOLAMON
PERIPHERAL AREA**

APPENDIX 1

COOLAMON DISTRICT PROPOSED SECTION 94 ROAD UPGRADING

