

SECTION 94A CONTRIBUTIONS PLAN 2015



Adopted by Council on 15 July 2015

Operational from 15 July 2015

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PART 1 Administration and Operation

1 What is the name of this Plan?

This plan is called Gloucester Shire Council Section 94A Contributions Plan 2015.

2 When does this Plan commence?

This plan commences on ##.

3 Purposes of this Plan

The purposes of this plan are:

- To authorise Council, or the consent authority, to impose, as a condition of development consent, a requirement that the applicant pay to Council a levy determined in accordance with this Plan;
- To require a certifying authority (Council or an accredited certifier) to impose, as a condition of issuing a complying development certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this Plan; and
- To govern the application of money paid to Council under condition authorised by this plan.

4 What does Section 94A of the Act provide?

Section 94A of the Act provides as follows:

94A Fixed development consent levies

- A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.
- A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.
- Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions Plan.
- A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.

5 Land to which this plan applies

This plan applies to all land within the Gloucester Shire Council local government area.

In accordance with Section 94C of the Environmental Planning and Assessment Act 1979, this plan is to be taken into account for development on lands not being exempt in accordance with this Plan that occur with an adjoining Local Government Area and have a demonstrated impact arising from the development within Gloucester Shire Council:

94C Cross-boundary issues

- (1) A condition may be imposed under section 94 or 94A for the benefit (or partly for the benefit) of an area that adjoins the local government area in which the development is to be carried out.*
- (2) Any monetary contribution that is required to be paid under any such condition is to be apportioned among the relevant councils:
(a) in accordance with any joint or other contributions plan approved by those councils, or
(b) if provision is not made for the apportionment in any such plan—in accordance with the terms of the development consent for the development.*
- (3) Any dispute between the councils concerned is to be referred to the Director-General and resolved in accordance with any direction given by the Director-General.*

6 Development to which this plan applies

This Plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Act in respect of development on land to which this Plan applies, except for:

- Single dwellings (one dwelling on one lot); and
- Development which is deemed to have an ongoing heavy haulage impact on Council's road transport network, as identified in the Gloucester Shire Council s94 Haulage Plan 2015. The decision on whether to apply section 94A or section 94 will be based on the amount of ongoing heavy vehicle movements generated by a proposed development of this type.

7 Repeal of existing Development Contributions Plans

This plan repeals and replaces any s94 and s94A plans previous applying in the Gloucester Shire Council local government area, those being:

Gloucester Council Development Contributions Plan 2008, Revised 2010
Gloucester Shire Council S94A Levy Development Contributions Plan 2006

8 Savings and Transitional Arrangements

A development application which has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan which applied at the date of determination of the application.

9 Council may require payment of the levy as a condition of development consent

This plan authorises the Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay to the Council a levy based on the proposed cost of carrying out the development as determined in accordance with the following table, **provided that** the Council does not also impose on the consent a condition pursuant to section 94 of the Act.

Development cost Levy amount

- Where the proposed cost of carrying out the development is up to and including \$100,000 Nil
- Where the proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000 0.5% of the cost of the development
- Where the proposed cost of carrying out the development is more than \$200,000 1% of the cost of the development

10 Certifying authority must require full payment of the levy as a condition of issuing a complying development certificate

If development consent has been granted to the carrying out of development subject to a condition authorised by this plan, then this plan requires a certifying authority (the Council or an accredited certifier) to issue a complying development certificate in respect of development to which this plan applies subject to a condition requiring the applicant to pay to the Council a levy of 1% of the proposed cost of carrying out the development.

11 How is the proposed cost of carrying out development determined?

Clause 25J of the Regulation sets out how the proposed cost of carrying out development is to be determined. That clause provides as follows:

25J Section 94A levy—determination of proposed cost of development

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:
 - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the Gloucester Shire Council s94A Plan work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation;
 - (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed;
 - (c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.
- (2) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:
 - (a) the cost of the land on which the development is to be carried out;
 - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development;
 - (c) the costs associated with marketing or financing the development (including interest on any loans);
 - (d) the costs associated with legal work carried out or to be carried out in connection with the development;
 - (e) project management costs associated with the development;
 - (f) the cost of building insurance in respect of the development;

- (g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land);
- (h) the costs of commercial stock inventory;
- (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the EP&A Regulation. The procedures set out in Schedule 1 to this plan must be followed to enable Council to determine the amount of the levy to be paid. The value of the works must be provided by the Applicant at the time of the request and where the value exceeds \$1,000,000 must be independently certified by a Quantity Surveyor who is registered as an Associate member or above with the Australian Institute of Quantity Surveyors.

Without limitation to the above, Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the Applicant and no Construction Certificate will be issued until such time that the levy has been paid.

12 How is the proposed cost of carrying out development indexed?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect quarterly variations in the *Consumer Price Index All Group Index Number for Sydney* between the date the proposed cost was determined by the Council and the date the levy is required to be paid.

The formula governing indexation of the proposed cost of carrying out development is as follows:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

where:

IDC = the indexed development cost

ODC = the original development cost estimated by the Council

CP2 = the *Consumer Price Index All Group Index Number for Sydney* at the time a levy is paid

CP1 = the *Consumer Price Index All Group Index Number for Sydney* at the date the original development cost was estimated by the Council.

13 A Cost Summary Report or Quantity Surveyor's Cost Report must accompany a Development Application or application for a Complying Development Certificate

A development application or an application for a complying development certificate is to be accompanied by a report, prepared at the applicant's cost in accordance with this section, setting out an estimate of the proposed cost of carrying out the development for the purposes of clause 25J of the EP&A Regulation. The following types of report are required:

- Where the estimate of the proposed cost of carrying out the development is up to and including \$1,000,000 – a Cost Summary Report in accordance with Schedule 1;
- Where the estimate of the proposed cost of carrying out the development is \$1,000,001 or more - a detailed Quantity Surveyor's Report in accordance with Schedule 2.

14 How will the Council apply money obtained from the levy?

Money paid to the Council under a condition authorised by this plan is to be applied by the Council towards meeting the cost of the public facilities that will be or have been provided within the area as listed in Schedule 3 – Works Program.

The locations of those facilities are shown on the maps included in Schedule 4 - Maps.

15 Are there priorities for the expenditure of money obtained from levies authorised by this plan?

Subject to s93E(2) of the Act and clause 16 of this Plan, the public facilities listed in Schedule 3 – Works Program are to be provided in accordance with the priorities set out in that Schedule. These priorities are currently numbered 1-14 but the money obtained from levies will be pooled and applied progressively when available and this will therefore determine the final priorities.

16 Pooling of levies

For the purposes of s93E(2) of the Act, this Plan authorises money obtained from levies paid in respect of different developments to be pooled and applied by the Council progressively towards the public facilities listed in Schedule 3 – Works Program, in accordance with the priorities set out in that Schedule.

17 Obligation of certifying authorities

Pursuant to clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it is satisfied of compliance with any condition requiring the payment of a levy before work is carried out in accordance with the consent. In the case of a Complying Development Certificate, the levy must be paid to Council prior to the commencement of any works.

The certifying authority must cause the applicant's receipt for payment of the levy to be provided to the Council at the same time as the other documents required to be provided under clause 142(2) of the EP&A Regulation.

18 When is the levy payable?

A levy required to be paid by a condition authorised by this plan must be paid to the Council at the time specified in the condition. If no time is specified, the levy must be paid prior to the first Certificate issued in respect of the development under Part 4A of the Act, apart from a Complying Development Certificate. In the case of a Complying Development Certificate, the levy must be paid to Council prior to the commencement of any works.

19 What is the Council's policy on the deferred or periodic payment of levies?

Council does not allow deferred or periodic payment of levies authorised by this plan.

20 Are there alternatives to payment of the levy?

Council may accept an offer by the applicant to provide an "in-kind" contribution (i.e. the applicant completes part or all of work/s identified in the plan) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this plan. Council may accept such alternatives in the following circumstances:

- (a) The value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- (b) The standard of the works is to council's full satisfaction; and
- (c) The provision of the material public benefit will not prejudice the timing or the manner of the provision of public facilities included in the works program; and
- (d) Other as appropriate in the circumstances.

The matters to be addressed and the procedures to be followed in making an application to Council for "works-in-kind" or "material public benefit" are set out in Council's "Works-In-Kind Policy" and "Material Public Benefit Policy". Council will require the applicant to enter into a written agreement for the provision of the works.

21 Exemptions to this Plan

The following types of development, or components of development, will be exempted from a requirement to make contributions or pay levies under this Plan:

- Development that involves the construction of a single dwelling where no dwelling currently exists (including, where permitted, to replace an existing dwelling that is being demolished)
- Development for the purposes of any form of seniors housing as defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that is provided by a social housing provider as defined in that Policy;
- Development for the sole purpose of disabled access;
- Development for the sole purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building;
- Development for the sole purpose of the adaptive re-use of an item of environmental heritage;
- Development other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out;
- Development exempted from contributions or levies by a direction of the Minister pursuant to section 94E of the EP&A Act, current at the time of assessment of the application (The direction will provide the terms of its applicability).

22 Definitions

In this Plan unless the context or subject matter otherwise indicates or requires:

ABS means the Australian Bureau of Statistics.

Act means the Environmental Planning and Assessment Act 1979.

Council means Gloucester Shire Council.

development contributions means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act.

levy means a levy under section 94A of the Act authorised by this plan.

LGA means local government area.

public facility means a public amenity or public service.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Residential Development includes any dwelling or dwelling house as defined in the local environmental plan applying to the subject land.

s94 plan means a development contributions plan made pursuant to section 94B of the Act.

23 Bibliography

Gloucester Community Strategic Plan 2014-2024

Gloucester Local Environmental Plan 2010 (LEP)

Gloucester Development Control Plan 2010 (DCP)

Development Employment Land & Commercial/Retail Strategy: Business Study, Gloucester CBD, Ratio Consultants 2006

Gloucester Shire Council Housing Development Strategy 2006

Gloucester Council Development Contributions Plan 2008, Revised 2010

Gloucester Shire Council S94A Levy Development Contributions Plan 2006

Gloucester Economic Impact Analysis 2010

Gloucester CBD – Parking Strategy (2011)

Roads and Traffic Authority Guide to Traffic Generating Developments, Version 2.2 October 2002

Guide to Traffic Engineering Practice – Intersections at Grade, Part 5 NAASRA National Association of Australian State Road Authorities

PART 2 Expected types of development in the Council's area and the demand for public facilities to be funded by the levy

The Gloucester Shire Council Housing Development Strategy 2006, indicated that sustained and significant population growth for the Shire is likely in the thirty-year period from 2001 to 2031 (an estimated population of 7080 people by the year 2031, which represents an average annual growth rate of 1.5% or a net increase of 2,240 persons*). As part of this anticipated population growth, not only will there be an increase in residential development, there will be associated growth in non-residential development, particularly in the form of commercial, agricultural and industrial development. This increase in development will impact upon and diminish the existing population's enjoyment and standard of public facilities and infrastructure unless additional facilities (or augmentation of existing facilities) are provided to meet the additional demand.

To cater for this increased demand for public facilities and infrastructure Council proposes to carry out the works in Schedule 3, which are in addition to the works identified in Councils other Development Contributions Plans.

Schedule 3 identifies the public amenities or services to be provided, recouped, extended or augmented by contribution monies derived by this plan.

*Source: Gloucester Shire Council Housing Development Strategy 2006

PART 3 Procedure for Estimating Cost of Development

An application for a Construction Certificate or an application for a Complying Development Certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out development prepared as follows:

- Where the estimated cost of carrying out the whole of the development as approved by the consent is \$1,000,000 or less - a Cost Summary Report in accordance with Schedule 1;
- Where the estimated cost of carrying out the whole of the development as approved by the consent is more than \$1,000,001 - A Quantity Surveyor's Detailed Cost Report, completed by a Quantity Surveyor who is a registered Associate member or above of the Australian Institute of Quantity Surveyors, in accordance with Schedule 2;
- Section 25J of the Environmental Planning and Assessment Act 1979 sets out the things that are included in the estimation of the construction costs by adding up all the costs and expenses that have been or are to be incurred by the Applicant in carrying out the development, including but not limited to the following:
 - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation;
 - (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed;
 - (c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.

Council may, at the applicant's cost, appoint a person to review the cost reports referred to in this clause.

Schedule 1

Cost Report Form

(Development Cost up to and including \$1,000,000)

Development Application No: _____

Reference: _____

Complying Development Certificate Application No: _____

Date: _____

Construction Certificate No: _____

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

DEVELOPMENT NAME: _____

DEVELOPMENT ADDRESS: _____

Analysis of Development Costs:

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor Finishes	\$	External Services	\$
Ceiling finishes	\$	Other related work	\$
Fittings and equipment	\$	Sub Total	\$

Sub Total Above Carried Forward	\$
Preliminaries and margin	\$
Sub Total	\$
Consultant Fees	\$
Other related development costs	\$
Sub Total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or complying development certificate
- calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices
- included GST in the calculation of development cost

Signed:

Name:

Position and Qualifications:

Date:

Schedule 2

Quantity Surveyor's Cost Report Form (Development Cost \$1,000,001 or more)

*A member of the Australian Institute of Quantity Surveyors

Development Application No:	_____	Reference:	_____
Complying Development Certificate Application No:	_____	Date:	_____
Construction Certificate No:	_____		

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

DEVELOPMENT NAME: _____

DEVELOPMENT ADDRESS: _____

Development Details:

Gross Floor Area – Commercial	m ²	Gross Floor Area – Other	m ²
Gross Floor Area – Residential	m ²	Total Gross Floor Area	m ²
Gross Floor Area – Retail	m ²	Total Site Area	m ²
Gross Floor Area – Car Parking	m ²	Total Car Parking Spaces	
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

Estimate Details:

Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per m ² of Site Area	\$ /m ²
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per m ² of Site Area	\$ /m ²
Cost per m ² of Site Area	\$ /m ²	Cost per Space	\$ /m ²
Construction - Commercial	\$	Fit-out – Commercial	\$
Cost per m ² of Commercial Area	\$ /m ²	Cost per m ² of Commercial Area	\$ /m ²
Construction – Residential	\$	Fit-out – Residential	\$

Cost per m ² of Residential Area	\$ /m ²	Cost per m ² Residential Area	\$ /m ²
Construction – Retail	\$	Fit-out – Retail	\$
Cost per m ² of Retail Area	\$ /m ²	Cost per m ² of Retail Area	\$ /m ²

I certify that I have:

- inspected the plans the subject of the application for development consent or complying development certificate prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors
- calculated the development costs in accordance with the definition of development costs in the Gloucester Shire Council s94A Plan at current prices
- included GST in the calculation of the development cost
- measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2

Signed:

Name:

**Position and
Qualifications:**

Date:

PART 4 Works Schedule and Works Maps

Public Facilities to be funded/augmented through s94A levies are listed in the following Schedule and their location identified on the associated map attached.

Levies paid to council will be applied towards meeting the cost of provision or augmentation of public facilities. Schedule 3 provides a summary of new public facilities, which will be provided by Council over the next 5 years, as well as the estimated cost of provision and timing of these facilities.

Note: Where any of the following facilities are also listed in another Development Contributions plan, the cost listed in this plan is in addition to the costs listed in any other plan.

Schedule 3 - Works Program

Works Program Section 94A Plan					
Project Description	Road/Item	Location	Area/Length	Costing \$	Priority
Bridge Upgrades					
Construct Composite Concrete Bridge	Geales Bridge	Dilgry River, Scone Road	112 m2	\$336,000	1
Construct Composite Concrete Bridge	Callaghans Creek Bridge	Callaghans Ck, Callaghans Creek Road	225 m2	\$725,000	2
Construct Composite Concrete Bridge	Fairbairns Bridge	Avon River, Fairbairns Road	117 m2	\$351,000	3
Seal Extensions					
Strengthen, Gravel and Seal	Bowman River Road	7.8 - 8.9 From Thunderbolts Way	7920	\$530,600	8
Strengthen, Gravel and Seal	Bowman River Road	8.9 - 10 From Thunderbolts Way	7920	\$530,600	9
Strengthen, Gravel and Seal	Bowman River Road	10.0 - 11.1 From Thunderbolts Way	7920	\$530,600	10
Strengthen, Gravel and Seal	Bowman River Road	11.1 - 12.2 From Thunderbolts Way	7920	\$530,600	11
Strengthen, Gravel and Seal	Bowman River Road	12.2 - 13.3 From Thunderbolts Way	7920	\$530,600	12
Strengthen, Gravel and Seal	Bowman River Road	13.3 - 14.5 From Thunderbolts Way	8640	\$579,000	13
Strengthen, Gravel and Seal	Bowman River Road	14.5 - 15.9 From Thunderbolts Way	10080	\$675,400	14
Strengthen, Gravel and Seal	Bundook Road	19 – 20 From Bucketts Way	7200	\$482,400	1
Strengthen, Gravel and Seal	Bundook Road	20 – 21 From Bucketts Way	7200	\$612,400	2
Strengthen, Gravel and Seal	Bundook Road	21 – 22 From Bucketts Way	7200	\$612,400	3
Strengthen, Gravel and Seal	Sawpit Road	1.6 – 3.3 From Wallanbah Road	10200	\$683,400	4
Strengthen, Gravel and Seal	Scone Road	25.32 - 27.65 (Mud Hut Rd to Lauries Rd)	13980	\$1,091,600	5
Strengthen, Gravel and Seal	Scone Road	27.65 - 28.83 (Lauries Rd to Jems Ck Bridge)	7080	\$629,300	6
Strengthen, Gravel and Seal	Scone Road	28.83 - 31.15 (Jems Ck Bridge to Geales Bridge)	13920	\$1,087,600	7

Miscellaneous Road Upgrades					
Widen Road Formation	Manchester Road	3.0 - 8.0 From Barrington West Rd	10000	\$360,000	2
Upgrade / Strengthen / Hotmix	Ravenshaw Street	Intersection with Philip Street	1200	\$250,000	1
Footpath/Mobility Scooter/Cycle Paths					
Construct Multi-use Pathway	Church Street	Jacks Rd to Hawdon St	1760m	\$295,680	3
Construct Multi-use Pathway	Thunderbolts Way	Relfs Rd to Bucketts Rd	1820m	\$305,760	1
Construct Multi-use Pathway	Henderson Street Reserve	Woodward St to Church St	300	\$24,000	2
Recreation Improvements					
Construct Accessible Toilet Facilities	Gloucester District Park	Adjacent No.1 and No. 2 Ovals & Picnic Areas	-	\$120,000	1
Construct Canteen & BBQ Facility	Gloucester District Park	Adjacent No.1 and No. 2 Ovals & Picnic Areas	-	\$60,000	2
Upgrade lighting to large ball competition Standard	Gloucester District Park	No.3 Oval	-	\$250,000	3
Upgrade lighting to large ball competition Standard	Gloucester District Park	No.1 Oval	-	\$125,000	4
Other					
Administration Building Extension	King Street			\$1,600,000	1
TOTAL				\$13,908,940	

Schedule 4 - Works Maps

(requires facilities/works to be mapped)