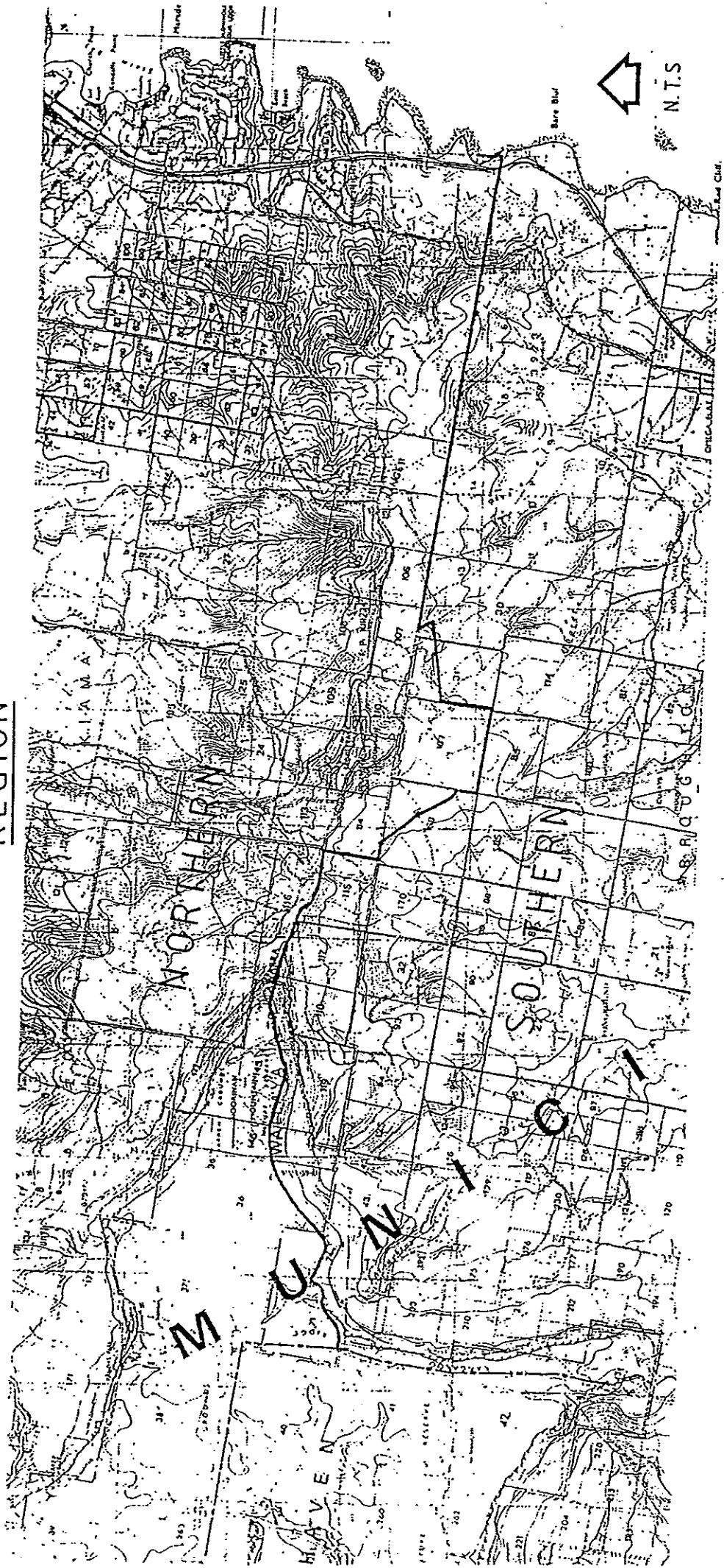




DETAIL OF BOUNDARY LINE BETWEEN NORTHERN & SOUTHERN  
REGION



## SECTION 94 CONTRIBUTIONS PLAN NO. 3 - ADOPTED 8/6/93

### SOUTHERN REGION

#### 1. Citation

This plan may be cited as Kiama Council Section 94 Contributions Plan No. 3 (Southern Region).

#### 2. Purpose of the Plan

Section 94 (s.94) of the Environmental Planning and Assessment Act 1979 (EPA Act) authorises Councils to require persons developing land to pay monetary contributions and/or dedicate land in order to help fund the increased demand for public amenities and public services (amenities and services) generated as a consequence of carrying out development. The Court has determined that s.94 is the sole method that Councils can use to require a contribution from a developer. The three general principles in applying s.94 contributions are:

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

Council may either:

- \* require a monetary contribution (or dedication of land) to fund works or facilities to be carried out in the future; or
- \* require a contribution to fund works or facilities which have already been constructed (i.e. recoupment of funds already spent).

Therefore, the purpose of this plan is to seek contributions for purposes identified in this plan.

#### 3. Aims and Objectives of the Plan

The aims and objectives of this Plan are to:

- \* ensure that Section 94 contributions levied on development are reasonable;

- \* ensure that an appropriate level of services and amenities occur within the southern region of the Municipality;
- \* employ a user pays policy regarding the funding of services and amenities so that the existing residents do not have to subsidise new development;
- \* ensure that the services and amenities provided are not for the purpose of making up shortfalls in other areas;
- \* make clear Council's intentions regarding the type, location and timing of provision of services and amenities within the southern region of the Municipality; and
- \* ensure that Kiama Municipality contains a reasonable level of public services and amenities.

**4. Land to Which this Plan Applies**

This plan applies to the southern region of Kiama Municipality generally south of Saddleback Mountain Ridge as shown on the cover sheet of this plan and the supporting diagram.

**5. Relationship between this Plan and Existing Plans, Policies and Codes**

This plan relates to:

- \* Section 94 Contributions Plan No. 1 of 1992 (Municipal Wide Plan);
- \* Kiama Local Environmental Plan No. 5;
- \* all existing and future development control plans as are relevant to particular types of development for which a contribution may be sought; and
- \* all existing and future Council Codes and Policies as are relevant to development for which a contribution may be sought.

Note: Reference must be made to the Section 94 Contributions Plan No. 1 of 1992 (Municipal Wide Plan). Additional contributions under this plan will be required over and above contributions levied under this plan.

## 6. Establishment of Nexus

Council has determined that the public services and amenities identified in this plan benefits the southern region of the Municipality and are accessible by all persons living within that region.

For the purpose of establishing nexus, it has been determined that all land within the southern region of the Municipality is within reasonable distance from the proposed and existing public services and amenities identified in this plan. Therefore, in terms of satisfying the requirement of nexus all land within the southern region of the Municipality is deemed to benefit from existing and proposed services and amenities identified in this plan.

Council will seek a Section 94 contribution where a development will, or is likely to require the provision or increase the demand for public amenities or public services within the area and as listed in the Works Schedule. Each development application will be considered on its merits.

## 7. Formula for Calculating Contributions

For the purpose of this plan, in calculating contributions the following formula will be used:

$$\$C = \frac{CW (\text{Southern Region})}{PP (\text{yr } 2000) - P (\text{yr } 1986)} \times DL + IPD$$

Where:

- \$C = Contribution rate
- CW = Cost of Work (\$292,279)
- PP = Population projections (i.e. 4,187 by year 2000)
- P = Existing Population as at 1986 (i.e. 2,865 persons)
- DL = Development Liability
- IPD = Implicit Price Deflator

With respect to the above formula, Council has determined that in 1986 services and facilities were provided to meet the population at that time.

Development involving the construction of medium density dwellings or subdivision of land for the purpose of creating dwelling sites, census statistics have indicated that 3.3 persons per household or lot is the average number of persons generated by this form of development. Therefore, in calculating the development liability (DL) a ratio of 3.3 persons per household/lot has been adopted. Contributions will then be determined on a per person basis.

For the purpose of calculating contributions for medium density development the following table indicates the persons per medium density unit for small, medium and large units:

Small	=	2 persons per unit
Medium	=	2.5 persons per unit
Large	=	3.3 persons per unit

For the purpose of calculating open space dedication a ratio of 28.3 m<sup>2</sup> per person is required. A contribution to meet this requirement may be met by either dedicating land at the above ratio or by a monetary contribution.

To satisfy the monetary contribution, the following formula will be used:

$$\text{\$C} = 28.3 \text{ m}^2 \text{ per person} \times \text{DL} \times \text{\$ englobo value of land to be acquired}$$

Where:

\\$C	=	Contribution rate
28.3 m <sup>2</sup> per person	=	Land dedication equivalent
DL	=	Development liability
\\$	=	Englobo land value

Council will be seeking monetary contributions on a notional basis to acquire land at a future date in the locality benefiting land to which the development applies.

## 8. Contribution Rates

The types of development liable for contributions under this plan are:

- \* any form of subdivision which involves the generation of additional persons;
- \* any form of residential development generating additional persons (other than single unit dwelling houses);

- \* dual occupancy development only where such development involves the creation of two new dwellings on a vacant lot of land or the demolition of existing buildings so as to create two new dwellings. In which case a contribution for only one (1) dwelling will be sought.
- \* Tourist related development which generates demand on services and facilities. In this case the contribution will be calculated at the rate of 65% of the normal contribution;

For the purposes of this plan, it has been determined that tourist related development places a demand on services and facilities equivalent to 65% yearly occupancy rate; and

- \* any other form of development which generates additional persons and creates a demand on services and facilities.

For contribution rates relating to particular types of development refer to Schedule 1 attached at the rear of the document.

## 9. Indexation

In order to update this plan without the need for amendment and readvertising a built in price increase equivalent to the implicit price deflator (IPD) has been adopted and will apply as at the date of granting development consent. For the purpose of this plan the quarterly published IPD will be used.

## 10. Method and Timing of Payment of Contributions

### Methods of Payment

There are three possible methods of payment for Section 94 contributions, each of which is outlined below.

### Monetary Contribution

This is the usual method of payment. When a development consent is issued that involves the payment of a Section 94 contribution, it contains a condition outlining the amount payable in monetary terms subject to indexation by the IPD. However this can be offset by either of the following two methods of payment.

### **Dedication of Land**

Where appropriate Council will permit the dedication of land for open space, community facilities, drainage or roads to offset the monetary contribution payable. The land that is to be provided be in accordance with the zonings indicated on Council's planing instruments for the area. The assessment of the suitability of land for dedication occurs at the Development or Subdivision Application stage.

If consent is issued for a development, then the applicant needs to contact Council in order to receive a valuation of the land proposed to be dedicated. Upon agreement being reached as to the land's value, and exchange of contracts subsequently occurring, Council will offset the value of the land against the monetary contribution payable.

### **Works-in-kind Agreements**

Council may accept the construction of amenities or services to offset the monetary contribution payable. The works provided must be in accordance with the schedules of works contained in this Plan. The applicant will need to initiate this option by giving Council full details of the work proposed to be undertaken. Council will then consider the request and advise the applicant accordingly.

If the works-in-kind are not completed prior to the completion of development, then the applicant will need to provide Council with suitable financial guarantees (normally by way of a Bank Guarantee) for the amount of the works not completed. Upon completion of the works the financial guarantee will be discharged by Council.

### **Timing of Payment**

Council's policy regarding the timing of payment of Section 94 contributions is as follows:

- \* **Development Applications involving subdivisions** - At the release of the linen plan (i.e. just prior to the formal creation of newly subdivided lots).
- \* **Development Applications involving building work** - At the time of building approval.
- \* **Development Applications where no building approval is required** - Prior to occupation.



**10. Schedule of Works, Commencement, Staging and Expenditures**

Works

For the purpose of this plan, Council has identified that the following services and amenities have or will be provided. For services and amenities already provided recoupment of such costs will be sought.

AREA	LOCATION	FACILITY	ESTIMATE (E) SECTION 94 (S94)
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**RECOUPMENTS**

\$

**Community Services and Facilities**

Southern Region	Stafford St, Gerroa	Neighbourhood Centre (Recoupment)	148,600 (E) <b>144,300 (S94)</b>
Southern Region	Fern Street, Gerringong	Extensions to Library (Recoupment)	16,000 (E) <b>16,000 (S94)</b>

**Engineering Works**

Foxground Bush Fire Brigade District	Foxground	Recoupment Bush Fire Brigade Shed (Recoupment)	3,804 (E) <b>3,804 (S94)</b>
Gerringong Bush Fire Brigade District	Gerringong	Recoupment Bush Fire Brigade Shed (Recoupment)	25,175 (E) <b>25,175 (S94)</b>

AREA	LOCATION	FACILITY	ESTIMATE (E) SECTION 94 (S94)
<b>PROPOSED WORKS</b>			\$
<b>Engineering Works</b>			
Southern Region	Geering St, Gerringong	Traffic management device - mid block threshold and associated treatment	50,000 (E) <b>50,000 (S94)</b>
Omega Crossing	Gerringong	Upgrading Level Crossing	53,000 (E) <b>53,000 (S94)</b>
<b>TOTAL</b>			<b>292,279</b>

### Commencement and Staging

To provide some indication of the likely timing for the provision of such facilities and amenities it is anticipated that all facilities and amenities will be provided within five (5) to seven (7) years. However, if the facilities and amenities are not provided within this period Council will endeavour to provide facilities and amenities either when a demand threshold has been reached or when sufficient funds are available to provide such facility or amenity.

### 11. Financial Information

A separate accounting record is maintained by Council for this Plan. It contains details concerning contributions received and expended, including interest earned, for each service or amenity provided.

Inspection of this accounting record may be made at Council's Accounting Department.

## 12. Monitoring of Plan

This Plan will be subject to regular review by Council. The purpose of any review is to ensure that:

- \* levels of public service and amenity provision are consistent with likely population trends and community needs;
- \* contribution levels reflect changes to land values and construction costs;
- \* changes to catchment areas can be incorporated; and
- \* work schedules can be amended if development levels differ from current expectations.

Any changes to the Plan, apart from the indexing of contributions, will be placed on public exhibition. Such exhibition period is 28 days and Council welcomes the opportunity for interested parties to make written submissions. The nature of the changes proposed and the reasons for such will be clearly outlined as part of the public participation process.

Any enquiries regarding this plan may be directed to Council's Town Planning Department.

**SCHEDULE 1**

<b>TYPE OF DEVELOPMENT</b>	<b>CONTRIBUTION PER PERSON \$</b>	<b>CONTRIBUTION PER LOT/UNIT \$</b>
Subdivision (i.e. conventional, community and strata title)	<b>221</b>	<b>730</b>
Medium Density Development		
Small	<b>221 x 2</b>	<b>442</b>
Medium	<b>221 x 2.5</b>	<b>552.50</b>
Large	<b>221 x 3.3</b>	<b>729.30</b>
Dual Occupancy (i.e. for second dwelling only on vacant lot - see (8) Contribution Rates)	<b>221 x 3.3</b>	<b>729.30</b>
Tourist Development (i.e. 65% of total contribution)	<b>300 x 1.5 x 0.65</b>	<b>215.50</b>