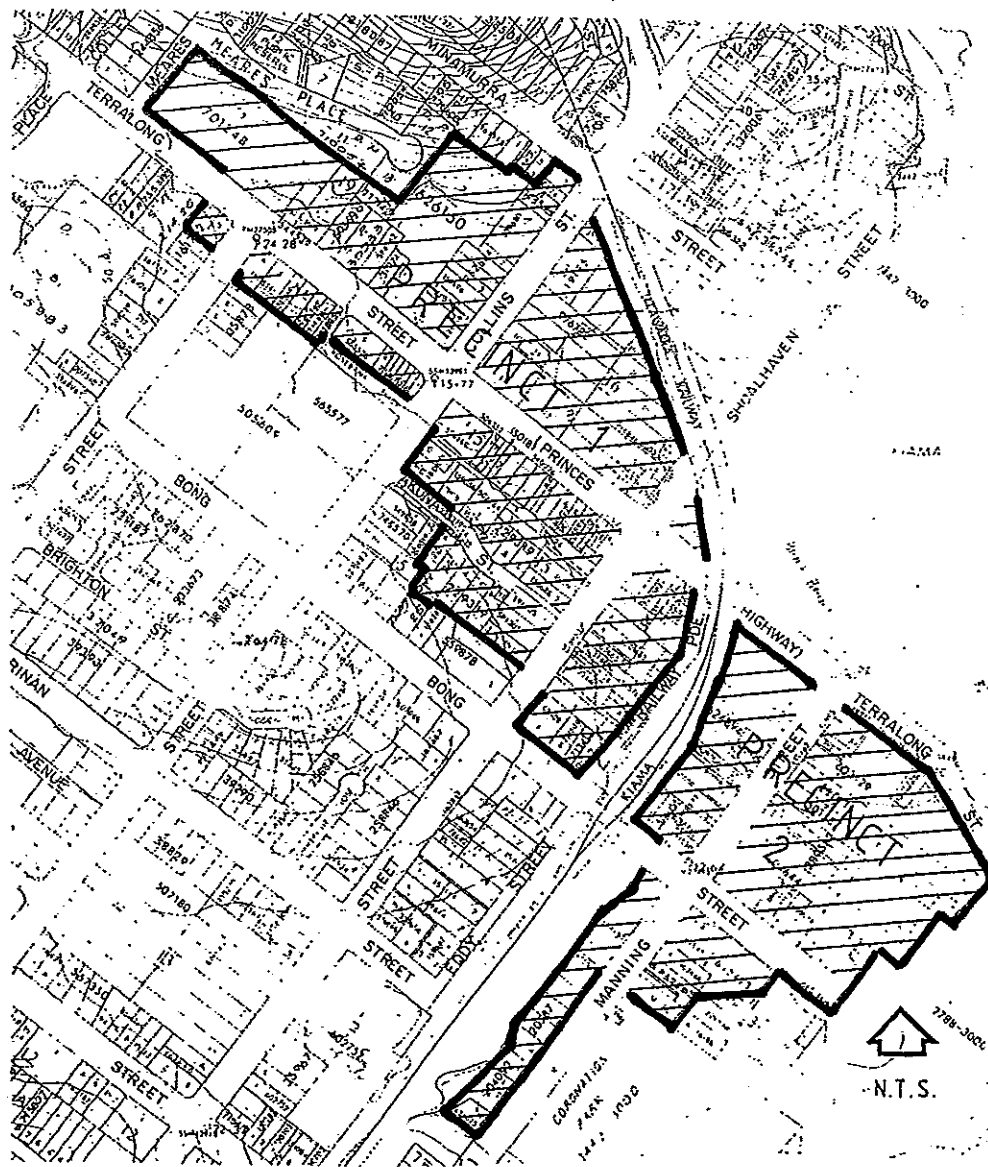


KIAMA COUNCIL
SECTION 94 CONTRIBUTIONS PLAN

NO. 4

ADOPTED 8TH JUNE 1993

**(CARPARKING CONTRIBUTION -
KIAMA)**



1. Citation

This plan may be cited as Kiama Council Section 94 Contributions Plan No. 4 Carparking Contribution (Kiama) adopted 8th June 1993

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 (3) 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 off-street carparking is provided within the Town Centre of Kiama;
- seek monetary contributions in lieu of development providing carparking on site; and
- seek monetary contributions related to the specific localities under this plan.

4. Land to Which this Plan Applies

This plan applies to the Kiama Town Centre as identified on the plan attached to this document.

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

This plan relates to:

- 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;
- all existing and future Council Codes and Policies as are relevant to development for which a contribution may be sought; and
- Kiama Council Carparking Code.

6. Establishment of Nexus

Council has determined that carparking contributions will be sought for the respective precincts identified in this plan (i.e. within the precinct where development is to take place).

It has been determined that the proposed and existing carparking areas identified in this plan are within reasonable distance from the proposed development therefore in terms of satisfying the requirement of nexus land on which development is to take place is deemed to benefit from either existing or proposed carparking areas.

7. Formula for Calculating Contributions

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

$$\text{PRECINCT 1} = \$C = DL \times \$3,556.50 + IPD$$

$$\text{PRECINCT 2} = \$C = DL \times \$6,147.00 + IPD$$

Where:

$\$C$ = Contribution rate

DL = Development Liability (i.e. number of carparking spaces for which contribution is sought)

$\$$ = Cost per carparking space (Precinct 1 = \$3,556.50)
(Precinct 2 = \$6,147.00)

IPD = Implicit Price Deflator

8. Contribution Rates

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

- any form of development which generates the need for off-street carparking.

The contribution rate per parking space is specified in the formula depending on the precinct in which the development is located.

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 assessment of the suitability of land for dedication occurs at the Development or 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 may be in lieu of 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 building work** - At the time of building approval.
- **Development Applications** where no building approval is required - Prior to occupation.

11. Schedule of Works, Commencement, Staging and Expenditures

AREA	LOCATION	FACILITY	ESTIMATE (E) SECTION 94 (S94) \$
Precinct 1 Township	Akuna Street Kiama	Carpark (Recoupment)	300,000 (E) 300,000 (S94)
Precinct 1	Off Collins Lane, Kiama (adjoining railway line)	Carpark	37,000 (E) 37,000 (S94)
Precinct 2	Terralong Street Kiama (east of railway line)	Carpark	90,000 (E) 90,000 (S94)
Precinct 2	Off Morton Street Kiama	Carpark	140,000 (E) 140,000 (S94)

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) years. However, 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.

12. 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 Corporate Services Department.

13. 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 Department of Environmental Services.