

**Nambucca Shire Council**

**Developer Contribution Plan:  
Project Administration**

**August 2013**

## Notes and Corrections to this Issue

Please note the following and corrections:

**There are no corrections**

## Amendments and Revisions

| <b>Issue No</b> | <b>Date</b> | <b>Issue Title</b>                                   | <b>Amendment</b>    |
|-----------------|-------------|--|---------------------|
| 1               | Aug 2007    | Section 94 Contribution Plan: Project Administration | Reviewed April 2013 |
| 2               | 30.06.2013  | Public Exhibition Draft                              |                     |
| 3               | 11.09.2013  | Adopted  |                     |
| 4               | 19.09.2013  | Commencement   |                     |

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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 Nambucca Local Government Area (LGA). Council therefore considers it reasonable that the expenses directly related to the administration of the S.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 Nambucca LGA as explained in **Part B** of this plan, with the exception of developments subject to s94A contributions. Council considers 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:

**Nambucca Shire Council**  
**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 developer 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 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 Nambucca Shire.

## **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 Nambucca Shire Council, with the exception of developments subject to s.94A contributions, which are exempt from this plan.

## **A.5 Relationship to other plans**

This contribution plan supersedes:  
Nambucca Shire Council s.94 Developer Contribution Plan: Project Administration 2007.

This plan incorporates the outstanding fund balance of the superseded plan current at the time of this plan's introduction.

This contribution plan has been prepared in relationship to:

- Nambucca Shire Council LEP 2010
- Nambucca Shire Council Development Control Plan 2010

This contribution plan relates to all developer contribution plans currently adopted and in operation in the Nambucca LGA. These documents are indexed in Appendix A.

## **A.6 Performance and review of this contribution plan**

This contribution plan is based on specific assumptions concerning predicted levels of development and Council's administrative costs. The performance of this plan, in meeting the objectives of:

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

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

## **A.7 Adjustment of contributions**

To ensure that the values of the contributions are not eroded over time by movements in the Consumer Price Index (CPI), Council will amend the contribution rates annually from 1<sup>st</sup> July and increased according to the previous March Quarter CPI to allow for increases in the cost of provision of services. Contributions required as a condition of development consent will be adjusted at the time of payment in accordance with the latest CPI (All Groups – Sydney) as published quarterly by the Australian Bureau of Statistics (ABS), using the following formula.

$$\text{Contribution at the time of payment} = C \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

Where:

- C = The original contribution amount as shown on the consent  
CPI 2 = The CPI Number (All Groups – Sydney) currently available from the ABS at the time of payment.  
CPI 1 = The CPI Number (All Groups – Sydney) last published by the ABS at the time of coming into effect of the Plan, or subsequent amendment of the plan.

## **A.8 Date of commencement of this contribution plan**

This contribution plan was adopted by Nambucca Shire Council on 11 September 2013.

The notification of adoption was published in local newspapers on 19 September 2013.

This plan commences on, and is effective from 19 September 2013.

This plan applies to all development applications, with the exception of s.94A developments, determined on and after this date.

## **A.9 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 contribution plan.

The plan applies to all development that will create a potential increase in demand for public amenities, infrastructure and services identified in Council's developer contribution plans.

### B.2 The contribution formula

The contribution rate is calculated by determining the cost of administering S.94 plan preparation and accounting 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

CR = contribution rate, expressed as a percentage

Ca = administration contribution

#### Worked Example:

Tca - Total cost of administration for S94/yr. = \$19,730

Tpi – Estimated total annual S94 income (based on actual income from previous year) = 191,562

CR% =  $\frac{\$19,730}{\$191,562}$   
 = 0.10  
 = 10%

Average weighted contribution = \$6,869.00  
 Ca = \$6,869.00 x .10  
 = \$686.90

Total S94 Contribution including administration levy = \$6,869.00 + \$686.90  
 = \$7,555.90

### **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**

There are no exemptions from this contribution plan.

Council will accept a deferred or periodic payment of contributions subject to the contribution being secured by bank guarantee and the deferment being no longer than 24 months. In such a case, the applicant must make a written request.

Council will require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on the condition that:

1. indexing will be calculated from the date the contribution was due until the date of payment;
2. the bank guarantee be by a bank for the amount of the total contribution, or the amount of any outstanding contribution plus an amount equal to 25 months' interest plus any charges associated with establishing or operating the bank security;
3. the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 24 months from the provision of the guarantee or completion of the work;
4. the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development;
5. the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required;
6. where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest has been paid;
7. the applicant will be charged an administrative fee based on the professional fees set in Council's Revenue Policy; and
8. periodic payments for a staged development will be on a pro rata basis – the proportion of the stage of the development in relation to the overall development.

## PART C

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### C.1 Nexus

The ongoing development and maintenance of Council's S.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 Council's S.94 Contribution Plans.

The legislative and administrative functions required to support and maintain the S.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.

Nambucca Shire Council has employed a Grants and Contributions Officer whose part-time role is to undertake these functional tasks and to ensure they are executed effectively. This position is accountable to the General Manager. The Contributions Officer is assisted in these tasks by Council's Accountant.

The cost of managing the S.94 program for Council is apportioned as being 50% of the Grants and Contributions Officer's salary and costs and 4% of the Accountant's salary and costs, being a total of \$19,730/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.

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 Nambucca 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.

Established centres at Nambucca Heads and Macksville will retain strong growth and planned release areas north of Nambucca Heads will provide longer term residential and commercial development opportunities.

This contribution plan will levy residential development.

## PART D

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### D.1 Work Schedule and Contribution Rate

#### Work Schedule

| Item | Description                                    | Cost over Life of Plan | %s.94 | Date      |
|------|--|------------------------|-------|-----------|
| 1    | Developer Contributions<br>Officer, Accountant | \$98,650               | 100   | 2013-2018 |

#### Contribution Rate

| Item | Description     | Rate % | Calculation                                     |
|------|-----------------|--------|---|
| 1    | All Development | 10%    | Calculated on subtotal of payable contributions |

# **APPENDIX A**

## **s.94 Developer Contribution Plans**

The following Developer Contribution Plans are currently adopted in Nambucca Shire Council:

- Valla Beach Road Overbridge
- Mines and Extractive Industries Road Maintenance
- South Macksville Roadworks (to be superseded by Upper Warrell Creek Road)
- Scotts Head Road/Grassy Head Road Intersection Upgrade
- Bellwood Local Roads and Traffic Infrastructure
- Bald Hill Road
- Upper Warrell Creek Road Overbridge
- Hyland Park Road
- Community Facilities and Public Open Space
- Surf Life Saving Facilities
- Smiths Lane Local Roads and Traffic Infrastructure

# APPENDIX B

## B.1 Map of Contribution Catchment

