



**SECTION 94 DEVELOPMENT CONTRIBUTIONS**

**PLAN NO 8**

**FOR PROVISION OF PATHWAY  
NETWORK AT BUNGENDORE**



**ADOPTED BY COUNCIL:  
THIS PLAN CAME INTO EFFECT ON:**

**12 July 2007  
18 July 2007**

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**SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN NO 8 FOR THE  
PROVISION OF PATHWAY NETWORK AT BUNGENDORE**

**1. SUMMARY**

This Contributions Plan has determined contributions as indicated below for the provision of a suitable pathway network at Bungendore valued at \$1,380,000. The network which will include paved footpaths, shared footpath/cycleway and some gravelled trails, will be provided progressively as the town develops over the next 20 years. Council acknowledges that it will need to make proportional contributions over this period to cater for pre-existing users.

The adopted contributions which will be subject to cost adjustment each quarter have been determined as follows, based on \$307 per new resident:

**SCHEDULE OF CONTRIBUTIONS**

For Subdivisions	\$890 per lot
For Medium Density/Dual Occupancy	
a. 1 Bedroom Unit	\$368 per unit
b. 2 Bedroom Unit	\$583 per unit
c. 3 Bedroom Unit	\$798 per unit
d. Above 3 Bedroom Unit	\$890 per unit

## **2. ADMINISTRATION AND OPERATION OF THE PLAN**

### **2.1 What is the name of this plan?**

The name of this Plan is **Palerang Council Section 94 Plan No 8 for Provision of Pathway Network at Bungendore**

### **2.2 Where does this Plan apply?**

This plan applies to all land within the Bungendore village boundaries as shown on Attachment 1.

### **2.3 What is the purpose of this development contributions plan?**

The purpose of this Plan is to:

- (a) provide an administrative framework and ensure that adequate public facilities are provided as part of any new development
- (b) to authorise the council to impose conditions under section 94 (s94) of the *Environmental Planning and Assessment Act 1979* when granting consent to development on land to which this plan applies
- (c) provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis
- (d) ensure that the existing community is not burdened by the provision of public amenities and public services required as a result of future development
- (e) enable the council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

### **2.4 What is the specific objective of this Plan?**

The specific objective of this Plan is to ensure that new developments pay a fair and reasonable contribution towards path upgrading and extension works that will be required to cater for pedestrian and cyclist movements as the village grows to full development.

## 2.5 Commencement of the plan

This Plan has been prepared pursuant to the provisions of s94 of *the EP&A Act* and Part 4 of the *EP&A Regulation* and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the *EP&A Regulation*.

## 2.6 Relationship with other plans and policies

This development contributions plan supplements the provisions of the Yarrowlumla Local Environmental Plan 2002 and any subsequent amendments.

## 2.7 Definitions

<i>Applicant</i>	Means the person, company or organisation submitting a development application.
<i>Community facility</i>	Means a building or place owned or controlled by the Council or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere defined in this section.
<i>Contribution</i>	Means the dedication of land, the making of a monetary contribution or the provision of a material public benefit, as referred to in Section 94 of the EP&A Act.
<i>Contributions Plan</i>	Means a contributions plan referred to in Section 94EA of the EP&A Act.
<i>Council</i>	Means the Palerang Council
<i>EP&amp;A Act</i>	Means the Environmental Planning and Assessment Act, 1979, as amended.
<i>EP&amp;A Regulations</i>	Means the Environmental Planning and Assessment Regulation, 2000, as amended.
<i>LEP</i>	Means the local environment plan for the area made by the Minister under Section 70 of the EP&A Act.
<i>LGA</i>	Means the Local Government Area.

<i>Public Facilities</i>	Means any public amenity or public service as referred to in Section 94 of the EP&A Act, including a Community Facility and a Recreation Facility, the need for which has increased or been created by Development.
<i>Recreation Facility</i>	Means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but does not include a building or place elsewhere defined in this section.
<i>Recoupment</i>	Means payment of a monetary contribution to the Council to offset the cost (plus any interest) which the Council has already incurred in providing public facilities in anticipation of development.
<i>Settlement</i>	Means the payment of a monetary contribution, the undertaking of a work in kind, or the exchange of documents for the dedication of land required as a result of new development.
<i>Works in Kind</i>	Has the same meaning as a 'Material Public Benefit' as referred to in Section 94(5)(b) of the EP&A Act and means the undertaking of any work associated with the provision of a public facility.
<i>Works Program</i>	Means the schedule of the specific public facilities for which contributions may be required, and the likely timing of provision of those public facilities based on projected rates of development, the collection of development contributions and the availability of funds from supplementary sources.

## **2.8 When is the contribution payable?**

A contribution must be paid to the council at the time specified in the condition that imposes the contribution. If no such time is specified, the contribution must be paid as follows:

- (a) For DAs involving subdivision - prior to the release of the subdivision linen plan (i.e, issue of subdivision certificate);
- (b) For DAs involving building works – prior to the issue of a construction certificate
- (c) For DAs where no building work is involved – prior to occupation or commencement of the approved development.

## **2.9 Construction certificates and the obligation of accredited certifiers**

In accordance with section 94EC of the *EP&A Act* and Clause 146 of the *EP&A Regulation*, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in accordance with clause 142(2) of the *EP&A Regulation*. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by the council. In such cases, council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

## **2.10 Complying development and the obligation of accredited certifiers**

In accordance with s94EC(1) of the *EP&A Act*, accredited certifiers must impose a condition requiring monetary contributions in accordance with this development contributions plan.

The conditions imposed must be consistent with council's standard section 94 consent conditions and be strictly in accordance with this development contributions plan. It is the professional responsibility of accredited certifiers to accurately calculate the contribution and to apply the section 94 condition correctly.

## **2.11 Deferred/periodic payments**

Deferred or periodic payments may be permitted in the following circumstances:

- (a) compliance with the provisions of Clause 2.8 is unreasonable or unnecessary in the circumstances of the case,
- (b) deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program,
- (c) where the applicant intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution and council and the applicant have a legally binding agreement for the provision of the works or land dedication,

- (d) there are circumstances justifying the deferred or periodic payment of the contribution.

If council does decide to accept deferred or periodic payment, council may require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on condition that:

- the bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security
- the bank unconditionally pays the guaranteed sum to the council if the council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work
- 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
- 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
- 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 are paid.

## **2.12 Can the contribution be settled “in-kind” or through a material public benefit?**

The council may accept an offer by the applicant to provide an “in-kind” contribution (ie 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



The value of the works to be substituted must be provided by the applicant at the time of the request and must be independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

Council will require the applicant to enter into a written agreement for the provision of the works.

Acceptance of any such alternative is at the sole discretion of the council. Council may review the valuation of works or land to be dedicated, and may seek the services of an independent person to verify their value. In these cases, all costs and expenses borne by the council in determining the value of the works or land will be paid for by the applicant.

### **2.13 Exemptions**

Council may consider exempting developments, or components of developments from the requirement for a contribution. These would include nursing homes and non-residential developments that do not cause a demand on the public facility for which the contribution has been set. For such claims to be considered, a development application will need to include a comprehensive submission arguing the case for exemption.

### **2.14 Review of contribution rates**

To ensure that the value of contributions are not eroded over time by movements in CPI, land value increases, the capital costs of administration of the plan or through changes in the costs of studies used to support the Plan, the council will periodically review the contribution rates.

The contribution rates will be reviewed by reference to the following:

- construction costs by the General Construction Index (GCI) for NSW as published by the Australian Bureau of Statistics.
- specific valuations for particular parcels of land that are identified in the s94 plan

In accordance with clause 32(3)(b) of *the EP&A Regulation*, the following sets out the means by which the council will make changes to the rates set out in this plan.

For changes to the **General Construction Index**, the contribution rates within the plan will be reviewed on a quarterly basis in accordance with the following formula:

$$\text{\$C}_c = \text{\$C}_A + \frac{\text{\$C}_A \times (\text{Current Index} - \text{Base Index})}{\text{Base Index}}$$

Where

**\\$C<sub>c</sub>** Is the current contribution rate (ie that applies at the time of review);

**\\$C<sub>A</sub>** is the contribution at the time of adoption of the plan;

Current\_Index is the General Construction Index for NSW as published by the Bureau of Statistics at the time of review of the contribution rate;

Base Index is the General Construction Index for NSW as published by the Bureau of Statistics at the date of adoption of this Plan which was 136.1.

Notes: 1. In the event that the current GCI is less than the previous GCI, the current GCI shall be taken as not less than the previous GCI.

2. The General Construction Index for New South Wales can be found at [www.abs.gov.au](http://www.abs.gov.au) under Series ID A2333667W.

3. The Building Materials Index for Sydney which has been suggested by NSW Department of Planning's Practice Note as an appropriate index to use is no longer prepared by ABS and is replaced by the General Construction Index for NSW.

## **2.15 How are contributions adjusted at the time of payment?**

The contributions stated in a consent are calculated on the basis of the s94 contribution rates determined in accordance with this plan. If the contributions are not paid within the quarter in which consent is granted, the contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rates that are applicable at time of payment taking into account any rises in the General Construction Index. These will be determined by applying the formula contained in Clause 2.14 above at the date of payment.

The current contributions are calculated by council and are available from council offices.

## **2.16 Are there allowances for existing development?**

Contributions will be levied according to the estimated increase in demand. An amount equivalent to the contribution applicable to any existing (or approved)

development on the site of a proposed new development will be allowed for in the calculation of contributions. This means that contributions will be levied on new residential developments in accordance with the following arrangements:

- For Subdivisions – for each lot created less are credit for each existing lot which contains a dwelling house or for which a contribution has previously been paid;
- For DAs involving new dwellings – for each extra tenement or extra equivalent tenements constructed on a land parcel. To assess this the following occupancy rates for the existing tenement(s) will be used:
  - Dwelling houses – **2.9** persons per dwelling
  - Other tenements
    - 1 bedroom unit/dual occupancy – 1.2 persons per dwelling;
    - 2 bedroom unit/dual occupancy – 1.9 persons per dwelling;
    - 3 bedroom unit/dual occupancy – 2.6 persons per dwelling

Where a development does not fall within any of the items noted above, the council will determine the credit on the basis of the likely demand that the existing development would create on the facilities being provided under the Plan.

## **2.17 Pooling of contributions**

This plan expressly authorises monetary s94 contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

### **3. WHAT IS NEXUS AND WHY IS IT IMPORTANT?**

The provisions of Section 94 (S94) of the Environmental Planning and Assessment Act enables Council to obtain development contributions as a means for funding local public amenities and infrastructure that are required as a result of new development.

Section 94B(1) of the Act requires that a contribution can be imposed only if a development contribution plan is prepared and adopted. Further, the contribution can only be imposed if it is in accordance with that contribution plan.

The power of Council to levy Section 94 contributions relies upon Council's ability to establish clear nexus between the proposed development and the need for increased amenities and infrastructure.

The three aspects of nexus which must be considered are causal, physical and temporal.

- Causal nexus requires that the need for the service or facility being levied must be a result of the development being levied.
- Physical nexus requires that the service or facility be near enough in physical terms to provide benefit to that development.
- Temporal nexus requires that the service or facility must be provided within a reasonable time.

In this Plan, these aspects will be demonstrated through:

- a. determination of the additional population generated by new development (the causal relationship); and
- b. determining from the above, the increased demand for amenities and infrastructure and where and when they will be needed (the physical and temporal relationship)

#### **4. WHAT RESIDENTIAL DEVELOPMENT AND POPULATION INCREASE IS EXPECTED AT BUNGENDORE?**

Between the 1996 census and the 2001 census the population of Bungendore and adjacent areas increased from 1353 to 1681 people. This is an average increase of over 4.0% per annum.

Since 2001 this growth rate has been sustained with over 200 extra building approvals.

The current population of Bungendore village is estimated to be about 2000 people.

The last of the stages of the Elmslea Estate continue to be developed and as well there are a number of other infill subdivision applications with Council.

From all indicators a similar growth rate can be expected over the next decade provided that an adequate water source is available for the village. The construction of new Defence Force Headquarters just south of the village will ensure continued interest in the village. An increase of 2500 population from 2000 in 2007 to 4500 can be projected in a 20 year timeframe to 2027.

An assessment has indicated that a total of about 1500 lots of average size of 1000 sq metres could be created to accommodate this population growth within the existing village boundaries.

## **5. WHAT IS THE DEMAND FOR FOOT AND CYCLE PATHS AT BUNGENDORE**

Village residents expect to be able to walk and/or cycle from their homes to visit friends or to reach the various facilities available in the village. These include the shopping centre, cafes, hotels, school, pre-schools, playgrounds, sporting fields, swimming pool, public halls and buildings, bus stops and other community facilities and meeting places. Residents also like to walk, jog and cycle for pleasure and exercise. To do this in a practical and safe way requires the provision of a network of formal paths including paved footpaths along streets and shared pathways in more open areas where they can be utilised by both pedestrians and cyclists. Pathways around public reserves not only provide access to them but can also provide a recreational use and thus promote a healthy lifestyle.

The need to provide for walkers, joggers and cyclists was identified in the visioning workshops held at Bungendore in 2006 and a proposed preliminary pathway network was subsequently included in the Bungendore Discussion Paper advertised in 2006.

The greatest need for upgrading and extending the pathway network is in the older village areas south of Turallo Creek. The Elmslea development north of Turallo Creek has already provided an extensive network of paths including a shared path linking to the older village at Turallo Terrace. The paths, especially in the public reserve areas, are used by residents from all over Bungendore.

The last stage of Elmslea Estate has been approved. No contributions from Elmslea will be forthcoming under this plan. The plan will however be applied to any 'redevelopment' applications in the Elmslea area beyond the existing approvals (e.g, multi-unit development, dual occupancies).

The proposed pathway network for the village is indicated on Attachment 1

## 6. HOW ARE CONTRIBUTIONS CALCULATED?

The formula below recognises that the new facilities are for both the existing and future population:

$$\text{S94 Contribution/person} = \frac{C}{P}$$

Where

C = Cost of providing upgraded and extended path network  
(refer to schedule in Part 8)

P = Projected total population of the village

Based on 1996 ABS data for Bungendore, the occupancy rates applied for residential developments are as follows:

- 2.9 person per residential lot or detached dwelling, and
- 1.9 person on average for medium density units

## 7. WHAT APPORTIONMENT FACTORS APPLY

The planned schedule of pathway works indicated in 8 below will cater for the existing lack of proper facilities as well as providing upgraded and extended paths to cater for new development.

Of the total expected population of 4500:

- a. 2000 is the existing population
- b. 1000 is expected to be growth resulting from already approved development
- c. 1500 is expected to be growth from new subdivisions and medium density developments approved in the future.

The costs for the facilities will therefore need to be met in part by future residential developments and in part by existing residential developments in accordance with the following ratio:

**Future Development : Existing Development = 1,500 : 3,000 = 1 : 2**



## 8. WORKS PROGRAM

ITEM	LOCATION	LENGTH m	WIDTH m	MATERIAL	UNIT RATE \$/m	ESTIMATE \$	PRIORITY	TIME FRAME
1	Elmslea Day St to Tarago Rd	146	1.5	AC/conc	70	10220	1	Within 6 years
2	Tarago Rd Elmslea S to Turallo Ck Bridge	291	2.5	AC/conc	150	43650	1	Within 6 years
3	Molonglo St Turallo Ck Bridge to Gibraltar St	333	2.5	AC/conc	150	49950	1	Within 6 years
4	Molonglo St Gibraltar St to Malbon St	223	2.5	AC/conc	150	33450	3	Within 15 years
5	Reardon St to Tarago Rd link	178	2.5	gravel	10	1780	1	Within 6 years
6	Elmslea Dr to Tarago Rd link	667	2.5	gravel	20	13340	3	Within 15 years
7	Molonglo St Malbon to Rutledge	223	1.5	AC/conc	70	15610	1	Within 6 years
8	Rutledge St Molonglo to Ellendon	60	1.2	AC/conc	55	3300	1	Within 6 years
9	Molonglo St Rutledge to Forster	220	1.2	AC/conc	100	22000	1	Within 6 years
10	Forster St Molonglo towards Ellendon	80	1.2	AC/conc	55	4400	1	Within 6 years
11	Molonglo St Forster to King	206	1.2	AC/conc	100	20600	1	Within 6 years
12	Gibraltar St Molonglo to Ellendon: North side	77	1.5	AC/conc	70	5390	2	Within 10 years
13	Gibraltar St Molonglo to Ellendon: South side	75	1.5	AC/conc	70	5250	2	Within 10 years
14	Malbon St Molonglo to Ellendon: North side	197	1.5	AC/conc	70	13790	2	Within 10 years
15	Malbon St Molonglo to Ellendon: South side	201	2.5	AC/conc	150	30150	2	Within 10 years
16	Ellendon St Gibraltar to Malbon	155	3.5	AC/conc	200	31000	2	Within 10 years
17	Ellendon/Turallo Butmaroo to Gibraltar	462	1.5	AC/conc	75	34650	3	Within 15 years
18	Bungendore Oval link	394	2.5	AC/conc	150	59100	1	Within 6 years
19	Gibraltar St Memorial to Majara	118	2.5	AC/conc	150	17700	2	Within 10 years
20	Majara St Gibraltar to Malbon	270	2.5	gravel	50	13500	2	Within 10 years
21		270	2.5	AC/conc	110	29700	3	Within 15 years
22	Majara St Malbon to Rutledge	247	2.5	AC/conc	150	37050	1	Within 6 years
23	Majara St Rutledge to Forster	234	2.5	AC/conc	150	35100	1	Within 6 years
24	Majara St Forster to King	205	2.5	gravel	50	10250	1	Within 6 years

ITEM	LOCATION	LENGTH	WIDTH	MATERIAL	UNIT RATE	ESTIMATE	PRIORITY	TIME FRAME	
25		205	2.5	AC/conc	100	20500	3	Within 15 years	
26	Majara St	King to Trucking Yard Lane	885	2.5	gravel	50	44250	1	Within 6 years
27		885	2.5	AC/conc	100	88500	3	Within 15 years	
28	Ellendon St	Malbon to Rutledge: west side	218	2.5	AC/conc	150	32700	1	Within 6 years
29	Ellendon St	Rutledge to Forster	197	2.5	AC/conc	150	29550	1	Within 6 years
30	Ellendon St	Forster to King	191	2.5	AC/conc	150	28650	1	Within 6 years
31	Ellendon St	King to Trucking Yard Lane	716	2.5	gravel	50	35800	1	Within 6 years
32		716	2.5	AC/conc	100	71600	3	Within 15 years	
33	Malbon St	Butmaroo to Majara	185	1.2	AC/conc	55	10175	2	Within 10 years
34	Trucking Yard Lane	Ellendon to Majara	269	2.5	gravel	50	13450	1	Within 6 years
35		269	2.5	AC/conc	100	26900	4	Within 20 years	
36	Trucking Yard Lane	Ellendon towards Molonglo	230	1.2	AC/conc	50	11500	3	Within 15 years
37	Turallo Creek	Bridge to Butmaroo	540	2.5	gravel	50	27000	3	Within 15 years
38		540	2.5	AC/conc	100	54000	4	Within 20 years	
39	Turallo Creek	Butmaroo to Link Rd path	340	2.5	gravel	50	17000	3	Within 15 years
40		340	2.5	AC/conc	100	34000	4	Within 20 years	
41	Link Rd path	Bungenore Park to Turallo Creek path	250	2.5	AC/conc	150	37500	1	Within 6 years
42	Link Rd path	Turallo Creek path to McMahon	300	2.5	gravel	50	15000	1	Within 6 years
43		300	2.5	AC/conc	100	30000	3	Within 15 years	
44	Railway Bridge link	Link Rd path to Duralla/Powell	400	2.5	AC/conc	180	72000	1	Within 6 years
45	Turallo Tce	Powell to Mecca North side	684	2.5	gravel	60	41040	3	Within 15 years
46	Malbon St	Durallo to Modbury	200	1.2	AC/conc	55	11000	2	Within 10 years
47	Malbon St	Modbury to Mecca	555	1.2	AC/conc	55	30525	4	Within 20 years
48	Access to new playing fields	ITEM	1200	1.5	gravel	50	60000	2	Within 10 years
<b>TOTAL</b>						<b>\$1,383,570</b>			

Council's financial commitment under the plan is therefore  
 $\$1,380,000 \times 2/3 = \$920,000$

## 9. CALCULATION OF CONTRIBUTIONS

Per Person  $\rightarrow$   $C/P = \$1,380,000/4500 = \$307$  per person

For Subdivisions =  $\$370 \times 2.9 = \$890$  per lot

For Medium Density/Dual Occupancy:

- a. 1 Bedroom Unit =  $\$307 \times 1.2 = \$368$  per unit
- b. 2 Bedroom Unit =  $\$307 \times 1.9 = \$583$  per unit
- c. 3 Bedroom Unit =  $\$307 \times 2.6 = \$798$  per unit
- d. Above 3 Bedrooms Units =  $\$307 \times 2.9 = \$890$  per unit

## **10. REFERENCES**

NSW Department of Planning Practice Note – Template for a section 94 development contributions plan (Issued July 2005)

Bungendore Discussion Paper 2006 (Prepared by Palerang Council July 2006)

Palerang Social and Community Plan 2007 (Draft)

