



PENRITH



KINGSWOOD NEIGHBOURHOOD CENTRE

Section 94 Development Contributions Plan

Adopted by council on 7th May 2001
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1.0 INTRODUCTION

1.1 WHAT IS SECTION 94?

Section 94 of the Environmental Planning and Assessment Act 1979, as amended, empowers Councils to require developer contributions towards the cost of providing required public amenities and services. The Act states that where a development will, or is likely to require the provision of, or increase the demand for public amenities and public services within an area, Councils may levy contributions from the developers for the provision of those amenities and/or services.

Section 94 is the sole mechanism that a Council can use to levy contributions from a developer.

The application of Section 94 follows three general principles:

1. The contribution must be for, or relate to, a planning purpose.
2. The contribution must fairly and reasonably relate to the subject development.
3. A reasonable planning authority, duly appreciating its statutory duties, could properly impose the contribution.

Under section 94(1) a Council is able to impose a condition on any development consent, requiring a contribution;

1. to provide works or facilities to be carried out in the future from which the development or its occupants will benefit; or
2. to fund works or facilities which have already been constructed from which the development or its occupants will benefit.

Backlogs in services and facilities which are required to meet the needs of existing development cannot be funded through section 94.

In major growth areas such as Penrith, it is important that baseline facilities and works are provided to sustain an acceptable form of urban development. By using contributions from developers for the provision of essential amenities and services, Council can significantly reduce the burden of cost of additional urban development on existing residents.

1.2 TYPES OF CONTRIBUTIONS

Section 94 makes provision for three methods of satisfying a contribution requirement:

1. Dedication of land to Council free of cost.
2. Monetary contribution.
3. Works in kind (Material Public Benefit – physical components not being land, which are of benefit to the general community).

1.3 PURPOSES OF THIS PLAN

The purposes of this Plan are to:

- a) enable the levying of developer contributions for the Kingswood Neighbourhood Centre required as a consequence of increased demand by an additional population generated by new development for residential purposes including, but not limited to **housing for older people, multi-unit housing** (including integrated housing), **shop top housing, dual occupancy** and **subdivision** within a defined benefiting catchment area;
- b) maintain a level of utility from existing neighbourhood community space by providing a new centre; and
- c) set down council's aims and objectives of this Plan and a policy for raising, holding and expending section 94 contributions.

1.4 INTERPRETATION

Terms used in this plan which are defined in Penrith Local Environmental Plan 1998 Urban Land (as amended) have the meanings set out in that Plan.

1.5 FINANCIAL INFORMATION

Council maintains a contributions register in accordance with clause 33 of the Environmental Planning and Assessment Regulation.

A separate accounting record is also maintained for this plan. It contains details of contributions received and expended, including interest earned, for each contribution category.

These records are available for inspection free of charge.

1.6 PLAN REVIEW

The Plan will be reviewed and updated from time to time on a needs basis. Any infrastructure works that have been constructed by Council at the date of review will be carried forward in the adjusted works schedule at their actual cost plus any accrued interest payments on borrowed funds used to construct the works. The revised plan will be advertised and considered in accordance with the legislation and Regulations.

2.0 AIMS AND OBJECTIVES

The aims and objectives of the Plan are to:

- a) Provide a basis for levying developer contributions over development which increases population within areas affected by this Plan for the provision of a new neighbourhood centre;
- b) Identify the projected cost of the proposed facility. Refer to **Schedule 1**;
- c) Ensure that the proposed level of community space provision is adequate to satisfy the demand generated by additional development and population growth; and
- d) Employ a user pays policy regarding the funding of services and amenities to ensure that existing residents of the City do not have to subsidise new urban development.

3.0 LAND AFFECTED BY THE PLAN

This Plan applies anywhere residential development is permitted within the area subject to this plan, as identified on the map at **Schedule 4**.

Where there is a legally enforceable obligation to pay contributions under other section 94 plans for purposes covered by this Plan, the other Plan operates instead of and not in addition to the requirements of this Plan.

4.0 RELATIONSHIP TO ENVIRONMENTAL PLANNING INSTRUMENTS

Penrith Local Environmental Plan 1998 Urban Land applies to the area subject to this plan (refer **Schedule 4**).

5.0 NEXUS

This Plan adopts as its basic rationale the following principles in establishing nexus:

- a) The provision of a service and/or facility via a section 94 contribution is a measurable consequence of the proposed development.
- b) The services and/or facility can be physically provided within a reasonable timeframe.
- c) Contributions raised under this plan are expended for the purposes stated in this plan.

5.1 NEIGHBOURHOOD CENTRE NEXUS

The nexus between new development and the proposed neighbourhood centre is related to:

- a) An increase and densification of population within the identified catchment area which will increase the demand for a neighbourhood centre in the area, and will require Council to expend funds before it otherwise would.
- b) The established nature of the area means that additional demand for community facilities has to be met by the provision of space specifically designed to meet this purpose.
- c) The densification of development results in the intensified use of other community spaces in the catchment area, reducing their effectiveness in meeting demand.

5.2 CATCHMENT AREA

The area considered likely to benefit from the proposed neighbourhood centre is defined at **Schedule 4**.

Anticipated residential growth in the catchment will give rise to an increase in demand for community space.

The quantum of residential growth anticipated in the catchment area is set out in **Schedule 3**.

6.0 JUSTIFICATION FOR CONTRIBUTION

6.1 BASIS FOR CONTRIBUTION

This Plan sets a contribution towards the Kingswood Neighbourhood Centre for the current phase of the City's growth.

The provision of the proposed neighbourhood centre will also satisfy a demand arising from existing residents within the catchment area. The costs of providing the facility will be shared between existing and future residents in the manner set out in paragraph 6.2, below.

6.2 APPORTIONMENT

Apportionment is a process which ensures that the contributing population pays only for its share of the proposed amenities or services to be provided.

Backlogs in services and facilities which are required to meet the needs of existing development cannot be funded through section 94. Only the proportion of the cost of providing the neighbourhood centre attributed to the demand arising from new development within the catchment area is funded through this plan.

This plan estimates that new residential development (defined as development which occurs after the adoption of this Plan) will constitute 19% of total residential development in the established areas by the lifetime of this plan (refer **Schedule 3**).

This plan will attribute 19% of the cost of the proposed neighbourhood centre to new residential development in the established areas. The remaining 81% of the cost will be funded by alternative means.

The cost of the facility reproduced in this plan does not include the cost of the land, which is currently owned by Council. The cost of the land is considered to have been met by existing residents.

6.3 EXPLANATION OF CONTRIBUTION RATE PER PERSON

In order to determine the contribution rate per person, the cost of the proposed Kingswood Neighbourhood Centre has been evenly distributed over the additional population estimate. Additional levies for cost of supervision and design, and administration [9%] have been included in the formula. The administrative component of the formula is required for the monitoring, review and implementation of the Plan, for which Council must dedicate staff and administrative resources to the task. The following Formula is used to calculate the contribution rate:

$$\text{Contribution Rate [$/person]} = (C \cdot A) / P$$

- Where:
- C =** The cost of the proposed Kingswood Neighbourhood Centre, plus the cost of design and supervision (being 8% of the cost of works), plus the cost of administration (being 1% of the cost of works).
 - A =** The cost-apportionment factor, described at para 6.2
 - P =** The estimated additional population for the are affected by this Plan to the end of 2006.

The cost of the facility, design/supervision and administration charges is reproduced in **Schedule 1**.

A full explanation of the basis of this formula is set out in **Schedule 2**.

It is anticipated that it may be appropriate to borrow money to fund the Works in advance of contributions being received. If money is borrowed, the contributions will need to fund the interest costs.

7.0 CONTRIBUTION RATES FOR NEW DEVELOPMENT

7.1 WHAT TYPES OF DEVELOPMENT WILL BE LEVIED?

This Plan requires that a contribution be applied to new development for residential purposes, including, but not limited to **housing for older people, multi-unit housing** (including integrated housing), **shop top housing, dual occupancy** and **subdivision**.

This Plan does *not* apply to subdivision of existing dwellings where a contribution under this plan has already been paid in respect of those dwellings and where no additional lots are created. See also para. **7.3.1 Credits for Contributions**.

7.2 OCCUPANCY RATES

For the purposes of calculating the total contribution, the following **occupancy rates** for different types of new development have been determined:

Multi-unit and Shop-Top Housing	2.4 persons for each new dwelling
Dwelling Houses, Dual Occupancy and Subdivision	3 persons for each new dwelling or new lot
Housing for older people	1.5 persons for each new dwelling¹

The above occupancy rates are based on ABS 1996 Census figures for Penrith.

7.3 HOW TO CALCULATE THE TOTAL CONTRIBUTION FOR NEW DEVELOPMENT

The **contribution rate** under this plan is **\$89.00 per person**, as described in **Schedule 2**.

The **total contribution** for new development is calculated as follows:

$$\text{Total Contribution} = \text{Contribution Rate at } \underline{\text{Schedule 2}} \times \text{Occupancy Rate} \times \text{Number of new dwellings or new lots}$$

7.3.1 Credits for Contributions

Credits for existing occupancy and vacant allotments apply will be calculated as follows:

¹In 1996, just over one-quarter (28%) of all older people lived alone. The majority of older people (63%) were living in family households, most of these with their partners. (Source "4109.0 Older People, Australia: A Social Report, 1999", Australian Bureau of Statistics). In the case of housing for older persons, an average occupancy rate of between 1 and 2 persons per new dwelling (1.5 persons) will be adopted in this Plan.

The total occupancy rate of the proposed development **minus** the occupancy rate of the existing development [being either the existing allotment(s) or the existing dwelling(s), whichever is greater].

The occupancy rate of a vacant allotment, or an allotment where no residential uses exist will be calculated as the equivalent of one existing dwelling house.

7.4 REVIEW AND INDEXATION OF CONTRIBUTIONS

The section 94 contribution rate will be indexed from time to time. This indexing is based on:

- a) the Consumer Price Index (All Groups Sydney) or equivalent index system or a projection thereof, and
- b) the appropriate interest rate for that portion of the plan which is loan funded.

The indexing will be published in Council's Annual Management Plan in July each year and will list the rates for the next 12 month period.

In addition Council may review the entire Contributions Plan, and subject to the regulations could adopt new contribution rates.

There will also be periodic reviews of the plan and the costs of all items. At the time of these reviews the revised contribution rate will not apply to developments that have already been approved or completed.

This formula automatically adjusts in the first quarter of each management plan for prior estimation errors.

The method of establishing the contribution rate shall be to estimate the result that would be achieved by applying the following formula on a quarterly basis:

For that portion of the contribution rate which is for items that are not loan funded:

$$NR = OR \times CI/EI$$

Where **NR** is the new contribution rate,
OR is the contribution rate at adoption of the plan,
CI is the latest Consumer Price Index (All Groups Sydney), and
EI is the Consumer Price Index (All Groups Sydney) which applied at the date of adoption of the plan.

For that portion of the contribution rate which is for loan funded works:

$$NR = PR \times (1+r)$$

NR is the new contribution rate
PR is the contribution rate at the previous quarter
r is the interest rate applicable to the loans

8.0 METHOD AND TIMING OF PAYMENT

8.1 ISSUE OF CONSENT

When a development consent is issued for a development any contributions required under this plan will be listed in the conditions attached to the consent. The conditions will indicate the contributions required and the time allowed for the payment of the contribution at that stated rate.

Where a development proposal involves work in kind or the transfer of land to Council for public purposes identified in the section 94 budget, the item and the corresponding estimate in the budget will be described in the conditions of consent.

8.2 INDEXATION OF CONTRIBUTIONS AFTER ISSUE OF CONSENT

The contributions payable are stated in a consent at the value payable during the current quarter. Amounts for future quarters are published in the Management Plan current at the time and in subsequent management plans. Should the applicable contribution rates not be validly published in the Management Plan, the rate applicable will be calculated in accordance with the review and indexation method of this Plan.

In the event that contributions are not received when due, interest will accrue on the debt at a rate equal to that which is due on unpaid Council rates and indexation will cease.

In the event that a contribution is assessed on this plan, and a subsequent or amended plan comes into force before payment is due, the developer may elect that the payment is due under this plan as at the day before a new plan comes into effect. As at that time, indexation ceases and interest applies in accordance with this part. This election may be made while the development consent remains valid.

8.3 METHOD OF PAYMENT

Payment may be made by any means acceptable to Council provided that if the payment is not by cash or by bank cheque then:

- any costs or commission payable by Council on the transaction or its collection must also be paid, and
- the payment shall not be deemed to be received until Council's bankers acknowledge the funds are cleared.

8.4 TIMING OF PAYMENT

8.4.1 Subdivision Applications

Payment of the contributions will be required prior to Council signing and releasing the linen plan of subdivision.

8.4.2 Development Applications Involving Building Work

Payment of the contributions will be required at the time of lodgement of a construction certificate.

8.4.3 Development Applications where no Building Approval is required

Payment to be made prior to occupation of the premises.

8.5 DEFERRED PAYMENT OF CONTRIBUTIONS

Council will give consideration to any request for deferment of contributions on its merits. However, the developer must make written application.

If Council grants such a request it is conditional upon the applicant providing a suitable Bank Guarantee and Deed of Agreement.

A period for deferral of a contribution will be agreed between the applicant and Council prior to preparation of the Bank Guarantee. The Bank Guarantee will be required to be valid for at least twelve months after the end of the agreed period. The period may be extended in circumstances acceptable to Council.

Interest and an administrative fee will be charged on deferred contributions equal to the rate applicable to overdue Council rates.

The amount of the Bank Guarantee will be calculated in the following manner:

$$G = C(I+1)^P, \text{ where:}$$

- G** is the amount of the Bank Guarantee;
- C** is the contribution owing at the time the contribution is due;
- I** is the estimated compound interest rate set by Council; and
- P** is the period covered by the guarantee.

The guarantee will be terminated when the liability is met by the payment of cash or transfer of land or works.

The Deed of Agreement is to be prepared by Council's solicitors at full cost to the applicant.

Council also charges an administrative fee for deferred payment of contributions.

The Bank Guarantee will be redeemed by Council should contributions not be paid by the due date.

8.6 TIMING OF WORKS

The rate of receipt of income from Section 94 Contributions is dependent on the rate of development which is difficult to precisely predict. This plan aims to provide works within a reasonable period, however nothing in this plan binds the Council to have to provide any

works or material public benefit the subject of this plan in advance of receipt of sufficient funds through the contributions that have been made under this plan.

SCHEDULE 1 – WORKS SCHEDULE

Kingswood Neighbourhood Centre

SUMMARY

a) Cost Allocation of the Proposed Kingswood Neighbourhood Centre is calculated as follows:

Total Available Budget	=	\$748,500
(i) Cost allocated for Construction	=	\$686,697
(ii) Cost allocated for Design, Supervision & Application Fees	=	9% of above Sub-Total (i)
	=	\$61,803
(iii) <u>Total Cost:</u>	=	\$686,697 + \$61,803
	=	<u>\$748,500</u>

b) Cost attributable to new residents under this plan

(iv) Apportionment of 19% total cost	=	19% of Total Cost (iii)
	=	\$142,215
		(refer clause 6.2 Apportionment)
(v) Cost of Administration of S94 Plan	=	1% of above Sub-Total (iv)
	=	\$1,422
(vi) <u>Total Apportioned Cost:</u>	=	\$142,215 + \$1,422
	=	<u>\$143,637</u>

SCHEDULE 2 – SCHEDULE OF VALUES IN THE CONTRIBUTION RATE FORMULA

Contribution Rate per Person

[Clause 6.3]

Contribution Rate [\$/person] = **(AC)/P**

($\frac{\$143,637}{1620}$) + any current indexed increases [Clause 7.4]

=

\$89 per person

[as at date of adoption of this plan and rounded up to the nearest dollar]

Where: **AC** = Apportioned Cost = **\$143,637**,
Being the cost of the proposed Kingswood Neighbourhood Centre apportioned to new residents under this plan. This equals 19% of the allocated budget and is based on the proportion of new residents to the total population of the catchment area when its current residential capacity is developed. The cost includes design, supervision and application fees, being 12% of the cost of works. An additional cost of 1% to cover the costs of the administration of this Plan applies.
[refer to **Schedule 1**]

P = **1620**
which is the estimated additional population at the end of the plan period from 2001.
[refer to **Schedule 3**]

SCHEDULE 3 – DEVELOPMENT ASSUMPTIONS ABOUT THE KINGSWOOD NEIGHBOURHOOD CENTRE CATCHMENT AREA

For the purposes of this plan, the “catchment area” is that area outlined in heavy black in the map at **Schedule 4**.

1. Population Growth in the Catchment Area

Penrith Local Environmental Plan 1998 Urban Land sets out the land use controls applicable to the catchment area. The number of lot zoned for multi unit housing and dual occupancy development, which meet the minimum site area requirements, and which are not already developed for the purpose is summarised in the table below.

Table 1 : Residential capacity of catchment area

Development Type²	Total Lots	Additional Dwellings	Additional Population¹
Dual Occupancy Zone (Lots >=650m ²)	279	84	252
Multi Unit Housing Zone (Lots >=800m ²)	335	570	1368
Totals	624	654	1620

¹ Consistent with Penrith Residential Strategy, 1997 which assumed 2.4 persons per dwelling unit in multi unit development, 3.0 persons per dwelling in dual occupancy development based on ABS Census Data (1996).

Based on this information, the catchment area has the potential for approximately **654** new dwellings representing a potential for approximately **1620** additional residents. This capacity will be developed within 12.5 years based on the average rate of approval of multi unit housing and dual occupancy development applications for the period 1996 – 1999.

2. Apportionment

This plan uses the projected increase in the population of the catchment area in its apportionment calculations.

The current population of the catchment area is approximately 7000 persons (ABS Census). Future ABS Census of Population and Housing results will be utilised as they are made available to monitor population estimates for the catchment area.

The additional population anticipated is 1620 persons (see Table 1, above).

Table 2, on the next page, illustrates that new residents will represent 19% of the projected population of the catchment area.

Table 2 : Apportionment

Existing Population within catchment	Additional Potential Population from 654 dwellings	Totals
7000	1620	8620
81%	19%	100%

Council will adopt the following formula when calculating apportionment:

Apportionment = (I/T)*100

$$\frac{\text{.....1620.....}}{7000+1620} * 100$$

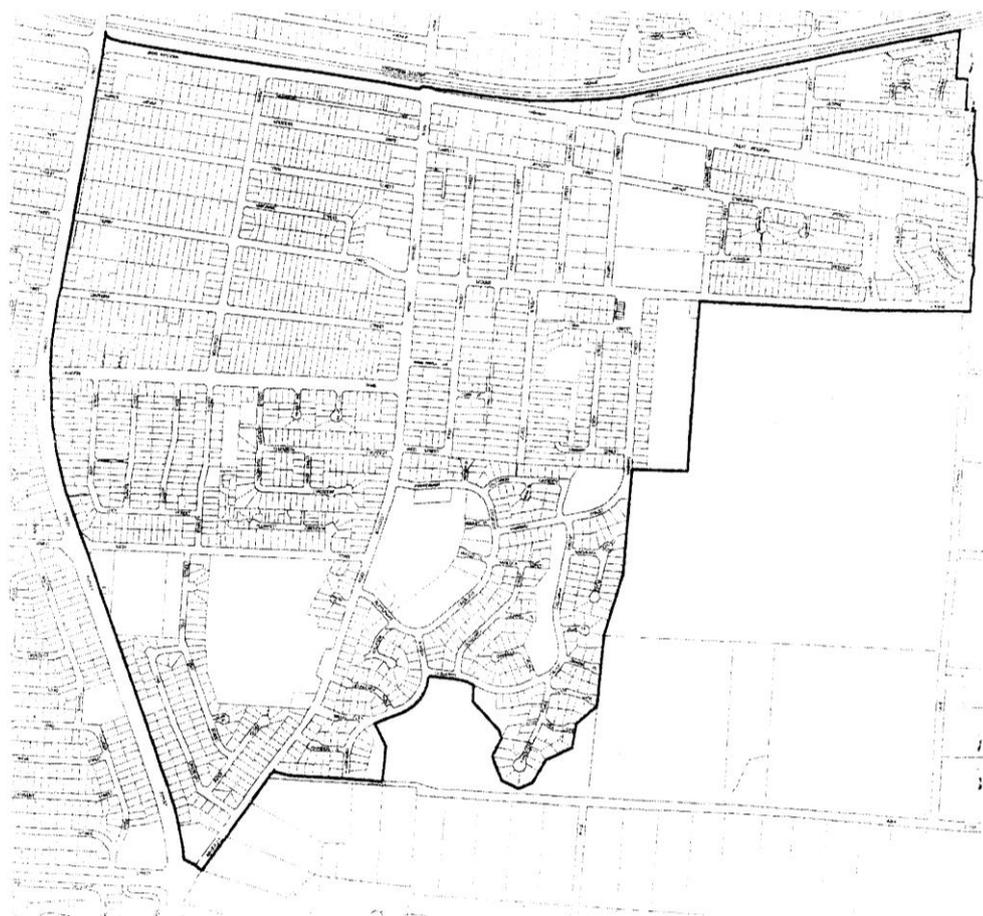
= 19% [rounded up to the nearest decimal]
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Where: **I** = **1620**, being the projected increase in population within the catchment area.

T = **8620** which is the total forecast population when current residential capacity is developed.

[refer to **Section 1**, above, for population estimates]

SCHEDULE 4 – DEFINITION OF CATCHMENT AREA



KINGSWOOD NEIGHBOURHOOD CENTRE