



Tumut Shire
COUNCIL

SECTION 94
CONTRIBUTIONS PLAN

MANAGEMENT

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Section 1 - INTRODUCTION

1.1 NAME OF THIS PLAN

This Plan is called 'Section 94 Contributions Plan: Management' (referred to in this document as the 'Plan'). This Plan has been prepared in accordance with the requirements of Section 94 AB of the Environment and Planning and Assessment Act 1979 ('the Act').

1.2 BACKGROUND

Section 94 of the Environmental Planning and Assessment Act, 1979 (as amended), enables Council to levy a contribution from any development that will or is likely to require an increase in the provision of public services and facilities. That contribution may be either in cash or in-kind and may be allocated to the cost of facilities and services already constructed in anticipation of demand.

The Crucial Role of Section 94

Progressively increasing community demands are being made for improved public services and facilities, but Council has only limited financial resources to respond effectively to these needs. Rate pegging legislation and curbs on borrowing will maintain budgetary constraints on Council. The application of Section 94 has, therefore, a crucial role for Tumut Shire Council in meeting its responsibilities for the provision of services and facilities, and sound financial management.

1.3 LEGAL FRAMEWORK

This Management Plan has been prepared within the legislative framework of the Environmental Planning and Assessment (Contributions Plans) Amendment Act, 1991; subsequent regulations and Department of Planning Guidelines. This framework makes provision for the Management Plan's scope; structure and content; public exhibition requirements and approval process.

Development's User-Pays Tax

The Land and Environment Court has verified Section 94 to be the exclusive source of power for levying monetary or land contributions under the Act. It has clearly indicated that contributions sought under other provisions of the Environmental Planning and Assessment Act are not lawful. Section 94 Contributions are in effect a special user-pays tax on development.

Spirit and Letter of the Law

The Management Plan has been prepared in the acknowledgment of the 'spirit' as well as the 'letter' of the Act and has taken into account the relevant decisions of the Land and Environment Court, regarding aspects of Section 94 Contributions determination and management. Due recognition has, however, been given to the contexts in which such interpretations and judgements have been made, and the contradictory nature of certain outcomes. Moreover particular weight has been given to the specific context and needs of Tumut Shire and the primacy of the 'spirit' of fairness and reasonableness.

1.4 LAND TO WHICH THIS PLAN APPLIES

This Plan applies to the whole of the Tumut Shire Council area, or where specified, to a part of the Shire.

1.5 RELATIONSHIP TO OTHER PLANS

This document provides the rationale and overall structure to the management of Section 94 Contributions for the Shire of Tumut. It should be read in association with three companion documents which provide the details of the Section 94 Contributions nexus, formulae and rates for:-

- Open Space Contributions Plan;
- Public Roads Contributions Plan;
- Car Parking Contributions Plan;

Section 2 - PURPOSE OF THE PLAN

2.1 AIM AND OBJECTIVES

Aim

The aim is to above all provide public accountability and a degree of certainty to this aspect of planning and development.

Objectives

The achievement of these aims is qualified by the following objectives:

- Respond to the changing needs of Tumut Shire and allow for the planned, effective provision of services and facilities likely to be required as a result of, or to facilitate new development;
- Openly show Council's policy for and administration of the monetary or land contributions required;
- Establish a nexus between new development and the need for community infrastructure;
- Show how monetary contributions were arrived at and how they will be spent;
- Offer the community and those involved in development more certainty as to current levels of contribution; and
- Provide the community with more information as to the nature and timing of services and facilities provision.

2.2 PRINCIPLES

Within the context of these aims and objectives, the Management Plan is founded on the following set of principles:

- The Management Plan established a framework within which the Shire's future needs for community infrastructure is adequately met.
- The Management Plan establishes a Shire-wide base contribution for the provision of open space facilities, whilst providing for the specific facility needs of local benefit areas.
- The Management Plan provides a rationale for the general allocation of Section 94 Contribution funds into the categories of:
 - * Open space
 - * Road works and traffic management
 - * Car Parking
 - * Section 94 contributions management
- The Management Plan encourages an holistic approach to the provision of all facilities. Fragmented, site specific facilities and amenities are discouraged, in favour of facilities that achieve broader, long term planning objectives.

- The Management Plan is founded on a 'cradle to the grave' approach to the provision of community infrastructure, on the assumption that at some stage in his or her life, a person is likely to require access to the full range of facilities and services that Council is able to provide.
- As far as possible, specific projects have been identified, configured and indicative costings estimated to be used as a basis for contribution determination.
- The Management Plan acknowledges that the provision of new community facilities and infrastructure is likely to benefit existing as well as new residents of Tumut Shire. Thus in determining contribution levels, the intent is to equitably distribute the respective responsibility for the funding of such facilities between existing and new residents. In the majority of cases there will be a need for Council to fund the existing ratepayers' share of these costs. In accepting this responsibility, Council has made every effort to minimise its commitment by seeking contributions from new development to refund it (by way of cost recoupment) for its previous expenditure on community infrastructure.
- The Management Plan provides for indexation of contributions to account for the effects of inflation.
- The Management Plan provides a degree of flexibility for Council to respond to private sector initiatives for facility provision whilst ensuring that sufficient funds are generated to cater for core facilities.
- The Management Plan identifies the accounting and management requirements for the expenditure of Section 94 contribution funds.
- The Management Plan provides for community consultation and a program of on-going review.

Section 3 - EXTENT AND NATURE OF THE PLAN

3.1 CONTEXT

Council is empowered to require contributions for those services and facilities that it has a responsibility to provide, whether or not it actually undertakes the work or provides that service itself. It cannot, for instance, levy funds to undertake main roads works that are the responsibility of the RTA. It can, however, require contributions to pay for other civil works which may be a Council responsibility, that are designed by a firm of consulting civil engineers and constructed by a civil contracting company. The provisions of the Management Plan relate to both private and public sector development.

The principal factor in determining the appropriateness of a Section 94 contribution levy is the establishment of a genuine nexus, or linkage between new development and a requirement by Council to provide a service or facility as a consequence.

3.2 SCOPE OF THE PLAN

Section 94 contributions are limited to the funding of capital expenditure and do not normally include operating and maintenance costs. The term capital expenditure is interpreted to include the following:

- Works undertaken by Council;
- Works contracted out by Council to another agency;
- Studies and management tasks undertaken by Council; and
- Studies and management tasks contracted out by Council to another agency.

Double Dipping

Council is at pains to avoid a practice known as "double dipping". That is to say levying a Section 94 contribution from new development and then levying a rate to raise funds for the same capital works from the residents of that development. Council seeks to avoid double dipping in two ways:

- Funds raised under the provisions of Section 94 are held as restricted assets and not returned to Council's general funds; and
- In determining the level of contributions under the provisions of Section 94, the intent is to equitably distribute the respective responsibility for contributions between the existing and the new resident.

When it comes to implementing a community project, Section 94 funds would be utilised with additional funding required to accomplish the works (ie. to fund the existing residents' share of the proposed community facilities and infrastructure) being sought for the most part from general rates, raised across the general community. What is then raised, from both the existing and the new residents would represent the 'remainder required'. This burden would then be distributed over the whole community at that time, equitably through the general rate raising.

Whilst this may give the appearance of double dipping, it is considered equitable because new residents are not being required to contribute (through Section 94

Contributions) towards the considerable investment in Tumut's existing urban infrastructure, funded for the most part by existing and previous residents, often on the basis of paying back extensive loan funding.

Grant Funding

Where appropriate, Council will seek Federal and State grant funding to assist the financing of identified community projects. Such monies will be used to augment Council's contribution to the funding of a project. As such they will be accounted for separately to monies collected as contributions under the provisions of Section 94.

Cost Recoupment

Council will seek recoupment for community facilities and infrastructure, wherein the past it has funded and provided them in anticipation of future population growth. These costs are then indexed forward to current day values, also taking into account interest paid on loan funds, similarly indexed. Council will not seek recoupment for past grant funding.

Variation to Project Scope

Where contributions collected for a community project exceed its actual cost, Council will consider: increasing the standard of the facility or amenity, or developing another facility or amenity within the same purpose category.

Where funding for a community project is not raised according to expectation, Council reserves the right to either: develop the facility or service to a lower standard; or reduce the scope of the project. However, where the financial scope of the project is varied, Council will honour its commitment by maintaining its pro-rata funding as indicated in this Management Plan.

3.3 DEVELOPMENT FORMS

The Plan makes provision for the funding of those Council provided services and facilities that have a nexus with new development. The following forms of new development are identified for the purposes of this Plan:

- Residential development
- Retail development;
- Commercial development;
- Tourist development;
- Industrial development;
- Crown development; and
- Council development.

All forms of agricultural development are excluded from the scope of this Management Plan.

3.3.1 Residential Development

For the purposes of this plan, there are six types of residential developments that attract contributions: urban subdivision, rural residential subdivision, multi residential units, dual occupancy, secondary dwellings and Community Title developments.

Urban Subdivision

All forms of urban subdivision are required to make a Section 94 contribution on a per lot basis. These requirements are in addition to the normal developer requirements contained within Council's Urban Subdivision Code.

Rural Residential Subdivision

All forms of rural residential subdivisions are required to make a Section 94 contribution on a per lot basis. A contribution shall be assessed on each additional rural residential lot created, irrespective of the size of lot. For existing allotments, a contribution shall be paid upon the erection of a dwelling.

Multi Residential Units

All forms of multiple residential unit development (irrespective of whether they are being strata titled or not) are required to make a contribution for each additional dwelling created. The strata titling of existing development is exempt.

Dual Occupancy

Dual occupancy means having two dwellings on one lot, and includes conversions and extensions of existing houses as well as building separate detached dwellings. Contributions are required for dual occupancies. This includes such developments on:-

- 'Greenfield' sites, where new services and amenities will clearly have to be provided;
- Sites where an existing dwelling has been demolished to create a vacant site;
- Sites where there are separate detached dwellings; and
- Extensions or conversions of existing dwellings.

Secondary Dwelling

Secondary Dwelling means a self-contained dwelling that:

- a) is established with another dwelling (the ***principal dwelling***), and
- b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- c) is located within, or is attached to, or is separate from, the principal dwelling.

All secondary dwellings having a floor area greater than 60m² are required to make a contribution if they are:

- an extension of an existing dwelling
- a separate attached or detached dwelling
- a new development on vacant land.

A contribution will not be payable if the secondary dwelling is created within an existing dwelling with no increase in total floor area.

Community Title Development

Council recognises that Community Title developments will normally provide a higher proportion of facilities and services within the development and that Section 94 contributions may not be required for the full range of services and facilities associated with a conventional development. Were this to be the case, the standard residential contribution rates will be discounted.

Housing for Aged or Disabled Persons

Residential accommodation, developed for aged or disabled persons under the provisions of State Environmental Planning Policy No. 5, is exempt from Section 94 contributions by State Government and no contributions may be levied by Council.

3.3.2 Retail Development

Contributions are required for all forms of retail development, within a specifically designated area, to provide/fund car parking facilities, where these are considered appropriate.

3.3.3 Commercial Development

Contributions are required for all forms of commercial development (such as offices and professional centres) to provide/fund car parking facilities, where these are considered appropriate.

3.3.4 Tourist Development

Contributions may be required for certain forms of tourist development, such as accommodation (hotels, motels, guesthouses and caravan parks); hospitality services (bars and restaurants); and attractions. Council recognises that certain forms of tourism development, such as resorts, are relatively self-contained or provide the general community with significant recreational facilities and amenities. The provision of such facilities and services will be taken into account by Council, when determining Section 94 contributions.

Contributions may be sought to provide/fund open space; parking; road upgrading; traffic management; and trunk drainage, where this is considered appropriate.

3.3.5 Industrial Development

Certain forms of industrial and large scale storage development may be required to make contributions to provide/fund open space; parking; road upgrading; traffic management; trunk drainage; and water quality control measures, where these are considered necessary.

3.3.6 Crown Development

In assessing Section 94 contributions for Crown development, Council will pay particular regard to the different capacities in which the Crown may act. There is a distinct difference between the Crown providing a service to an existing community and the Crown undertaking the development of a new community. In the latter case the new community, like any community, will need services and facilities which Council may be required to provide, and for which Council would be entitled to levy Section 94 contributions.

Developments which are provided by the Crown with an underlying philosophy of community service, such as a courthouse or school, will be assessed differently from

developments which are provided by the Crown, acting in the same manner as the private sector.

Where the Crown constructs developments such as pensioner units or housing for low-income families, whose needs are not adequately catered for in the private housing market, Council will, when considering Section 94 contributions, take into account the public benefits which the general community may derive from such developments. In addition, Council will take into account the fact that certain types of development provided by the Crown create less demand on facilities and services than private developments.

Council recognises that significant public benefit has been gained from the existing open space supplied by the State Government and will take this into consideration when processing Crown developments. Therefore Council will consider offsetting Section 94 contributions against community contributions already provided by the State Government.

To enable Council to adequately consider these matters, it will direct that development applications by the Crown be accompanied by a statement of public benefit. However, where the Crown acts in a private developer capacity, Council will expect it to pay a level of contribution equal to that applicable to the private sector.

3.3.7 Council Development

Where Council acts in the capacity of a private developer, similar considerations will apply to that which would be relevant to the Crown under such circumstances. Council would expect to pay a level of Section 94 contributions equal to that of a private developer. It is not Council's intention that the private sector or the general community be disadvantaged in any way by public sector development.

3.4 RANGE OF SERVICES AND FACILITIES

Section 94 contributions will be levied for the following range of services and facilities:-

- Public open space
- Public roads;
- Car parking;
- Section 94 contributions management;

3.4.1 Public Open Space

Public open space relates to areas of open space that are needed to meet the requirements of the general community. Council will levy for open space by one or a combination of the following methods:-

- Land contributions;
- Monetary contribution for land;
- Monetary contribution to improve existing or new open space (embellishments); and
- Land and Monetary Contributions.

The amount of open space to be provided in both new and established areas has been determined on the basis of the Tumut Open Space Plan.

Open Space Embellishments:

Monetary contributions for the embellishment of open space will be sought in all areas, where a need is established and a nexus demonstrated. Open space embellishments include:

- Initial planting and establishment;
- Earthworks;
- Water supply;
- Fencing;
- Lighting;
- Access and parking;
- Pathways and cycleways;
- Playground equipment;
- Amenities blocks;
- Playing fields; and
- Barbecue areas, tables, seating and shelters.

3.4.2 Public Roads

Monetary or in-kind contributions will be sought by Council for the upgrade of the road network external to a new development, where a need is established and a nexus demonstrated. The public road system within a subdivision will normally be funded and constructed by the developer. Potential public road network upgrade works, that are the responsibility of Council and for which contributions could be levied, include:-

- Road construction/reconstruction;
- Intersection construction/reconstruction;
- Bridge construction/reconstruction;
- Intersection signalisation;
- Level crossing construction/reconstruction;
- Associated drainage works; and
- Signage and road marking.

Contribution rates are assessed on the basis of the amount of traffic generated by the development, together (where appropriate) with an assessment of the extent to which existing and future development will benefit from the road network improvements provided.

3.4.3 Car Parking

Contributions for car parking are sought by Council in non-residential areas in cases where the provision of on-site parking is insufficient to meet demand or is restricted in that location by Council policy. Contribution rates have been determined, taking into account the rate of total parking demand created by a particular form of development; the extent of acceptable on-site parking; Council's ability to provide parking; and the potential for multiple use.

3.4.4 Section 94 Contributions Management

Council will seek contributions to fund the on-going management of this Plan.

3.4.5 Future Expansion To Range Of Services And Facilities

Owing to the uncertain nature of particular future development forms and the vagaries of forecasting community needs, it has not been possible to document and cost all the facilities and services that may be required in the future. These will be progressively added to this Management Plan, as it is reviewed and amended by Council following consultation with the community. Services and facilities that may be required in the future include the following:

- Bushfire Risk Management;
- Drainage;
- Libraries;
- Public swimming pools;
- Community Centres;
- Environmental Management, etc.

3.5 GEOGRAPHICAL EXTENT OF THE PLAN

Tumut Shire Council Area

The provisions of this Management Plan apply to the whole of the Tumut Shire Council area, illustrated in Figure 3.1.

Purpose Benefit Areas

Where it has been inappropriate to assign a development purpose to a precinct, a purpose benefit area has been defined. Typically a purpose benefit area is defined where a particular facility is judged to benefit a limited number of readily identifiable stakeholders. These are usually landowners that have a proposed facility within their property boundary (either wholly or partially) or are immediately adjacent to it. Benefit areas are associated with:

- Public open space
- Rural roads;
- Car parking; and
- S94 Plan management.

3.6 TIME SCALE

The Section 94 Contributions Management Plan provides for both the provision of major facilities that serve the longer term needs of the Tumut Shire's population and facilities that meet the immediate needs of local communities. A maximum timescale of 20 years has been adopted.

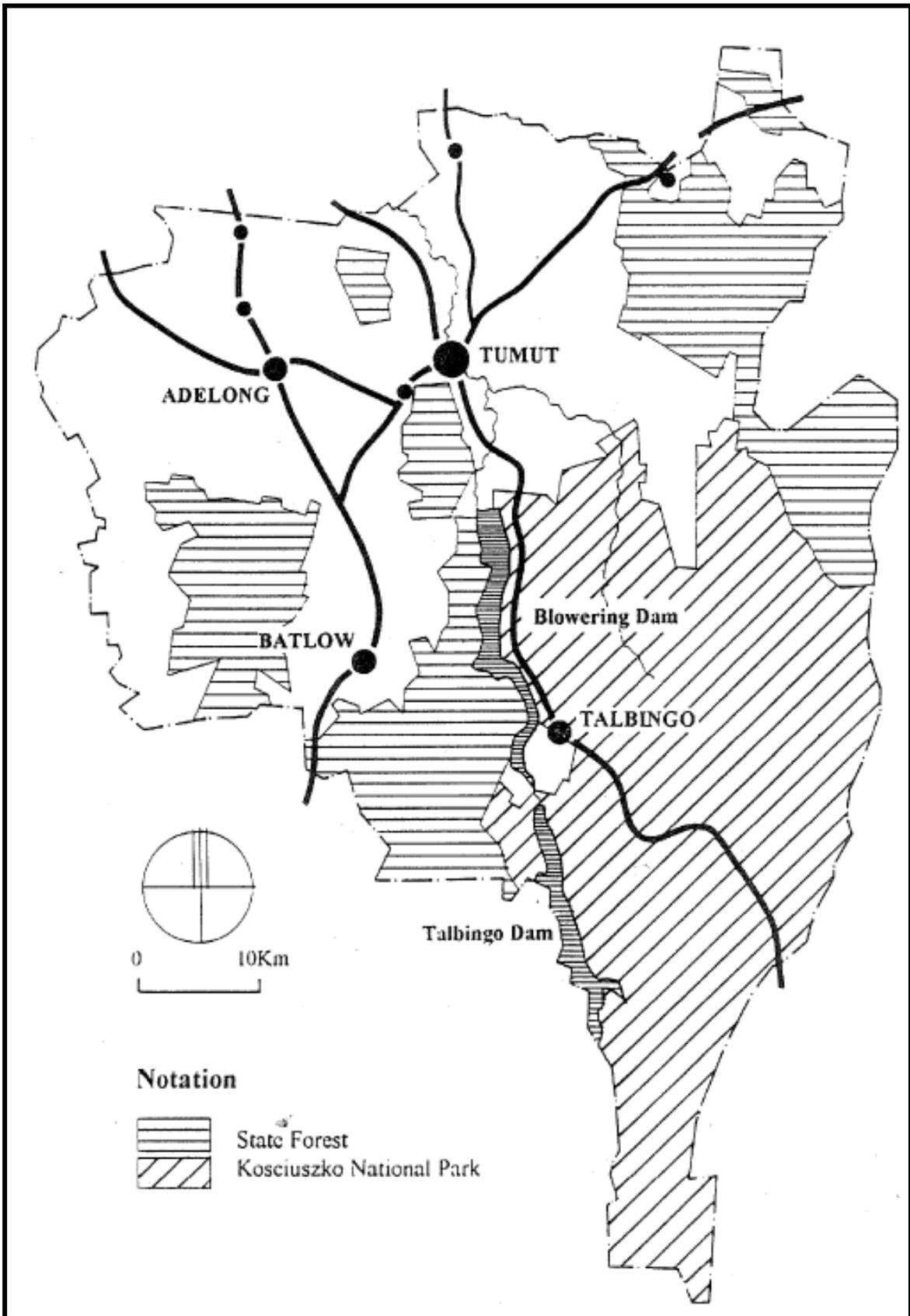


Figure 3.1
SHIRE OF TUMUT

Section 4 - CONTRIBUTION NEXUS

4.1 CONTEXT

The assessment of the amount of Section 94 contributions for specific community amenities and services is based primarily on the anticipated increase in population, generated by new development (expressed as households or equivalent tenancies). This is referred to as the nexus between the development and the Section 94 levy.

The provision of services and facilities will be staged to commence when critical population thresholds are reached. Section 94 contributions may either be obtained in advance of the provision of services and facilities, or as a recoupment of funds already spent. Recoupment will normally occur where services and facilities have been provided in anticipation of, and are of benefit to, subsequent development, and subject to the proviso that a nexus can be demonstrated between the development and the service and/or facilities provided.

4.2 TUMUT'S GROWTH PROFILE

Since the end of World War II the Tumut Shire area has experienced both considerable growth and periods of decline. Post World War II reconstruction and the Snowy Mountains Scheme provided a most significant stimulus to growth in the region. Since then, the pattern and rate of growth has been primarily a function of the changing fortunes of the Softwood Timber Industry.

4.2.1 Recent Trends

The last two decades have seen a pattern of slow decline dropping from a high of 12,750 in 1971 to the latest ABS estimate of 11,590 for 1996. This pattern of decline has been interrupted by a decade of stasis during the 1980s when the timber industry was about to 'take off'. This pattern is demonstrated graphically in *Figure 4.1*.

This pattern is similar to that which has afflicted much of rural NSW where the rural restructuring and the collapse of many rural service centres has undermined the structural elements for growth. Generally this has meant a potentially positive rate of natural increase in a region is either diminished or eliminated by a net outward migration.

This net outward migration is usually of the younger age groups, so undermining future fertility. Tumut's strength has been that it has not allowed this process to overwhelm it and it has generally been able to keep its population at about the 12,000 level.

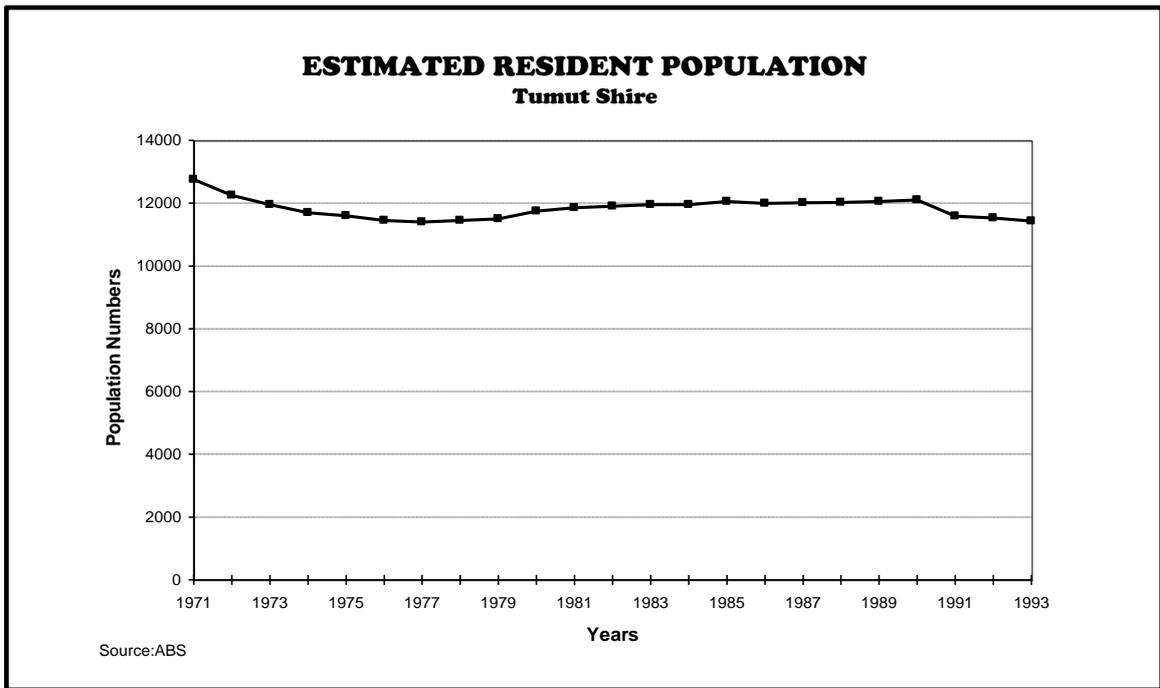


Figure 4.1
ESTIMATED RESIDENTIAL POPULATION

4.2.2 Household Size

Trends in Rural NSW

The average household size in New South Wales has declined from 3.7 in 1961 to 2.9 in 1991. Rural NSW historically had larger households than the metropolitan area. But since 1961 the rural average household size has declined faster than the urban area and is now equal to it. More significantly the Department of Planning Demographic Unit expects the decline in the rural areas to continue and that the rural average will finish up in 2021 marginally below that for the metropolitan region.

Regional Trends

A similar pattern can be seen to have operated in the Shire over the last two decades. At the 1986 Census, the occupancy rate for the Shire was 2.64. It subsequently declined to 2.46 at the 1991 Census. It is anticipated that this rate of decline in the Shire's household size will continue over the next two decades.

4.2.3 Population Projections for Tumut

In the context of fluctuating growth/decline trends, it is exceedingly difficult to forecast Tumut's population over the next 20 years, with any great certainty.

Department of Planning's Forecasts

In 1994 the Department of Planning published its projections for each of the local government areas of NSW. These were based on a state wide view of broad demographic trends and local regional prospects. They provide a sound basis for state and regional assessments of the future. But at the local level they need to be moderated by the influence of local prospects and local initiatives.

Figure 4.2 indicates that the state and regional view for the Shire is for a slow but steady continuation of the recent decline. But their projection also acknowledges the fact that there is always some uncertainty in such forecasts, particularly where the quantities in question are relatively small. For instance, the establishment or closure of a resource based enterprise could cause a significant rise or fall in the population trend-line.

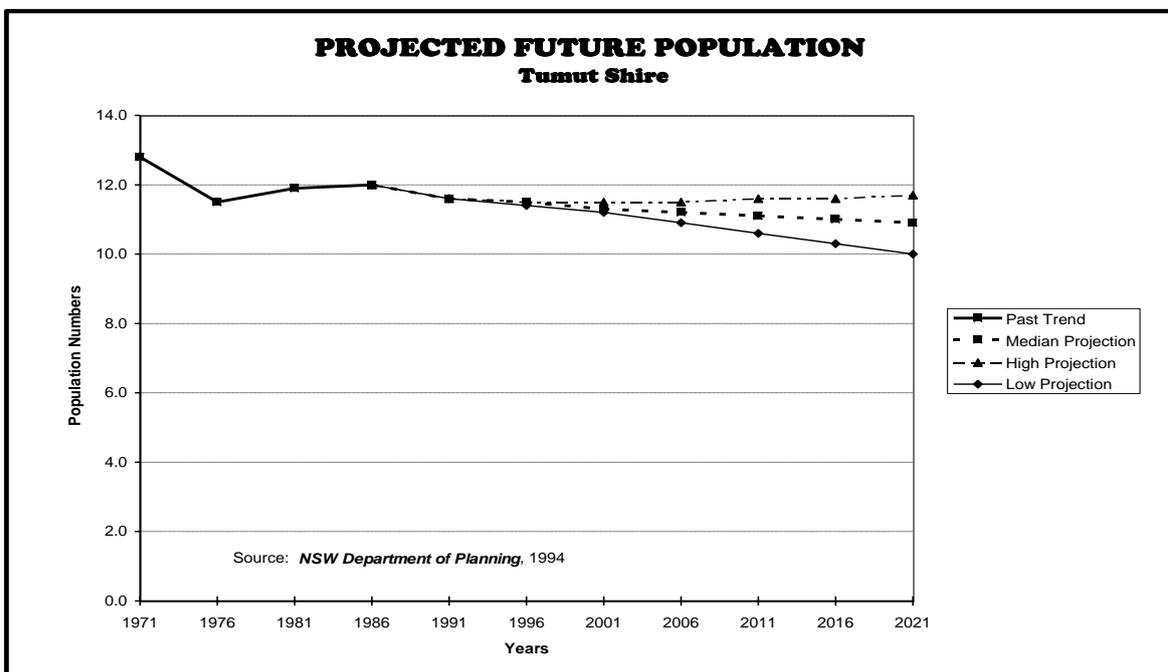


Figure 4.2
PROJECTED FUTURE POPULATION

Council's Forecasts

Overall Council is of the view that the upper range of the Departmental projection will best describe the Shire's future. Studies of Tumut's economic potential, which mainly focussed on the Softwood Timber Industry and tourism, have indicated that an annual growth rate of 0.4% would not be unreasonable. In some quarters this projected growth rate is considered to be conservative.

4.2.4 Dwelling Projections

Given the assumptions defined above for the population and occupancy rates, Table 4.1 sets out the likely development of dwellings in the Shire. The high projection has been taken as the base for the estimate of dwellings. The occupancy rate assumes a continuation of the decline experienced in recent years, dropping to 2.25 in 2016. The projection indicates that the Shire's stock of dwellings could increase from the current 4710 to 5530 by the year 2016, an increase of 820 dwellings over the period (41 dwellings per year).

Table 4.1
TUMUT SHIRE POPULATION ESTIMATES & PROJECTIONS

Year	ABS Estimate	Population Projections			Dwelling Projection	
		Low (DoP)	Medium (DoP)	High ² (Council)	Occupancy Rate ²	Dwellings
1971	12,750					
1976	11,450					
1981	11,850					
1986	11,990	12,000	12,000	12,000	2.64	4352
1991	(11,135) ¹	11,600	11,600	11,135	2.46	4521
1996	11,590	11,400	11,500	11,590	2.46	4710
2001		11,200	11,300	11,730	2.40	4890
2006		10,900	11,200	11,960	2.35	5090
2011		10,600	11,100	12,200	2.30	5305
2016		10,300	11,000	12,440	2.25	5530
2021		10,000	10,900	12,690	2.20	5770

Note: 1. 1991 figure actual Census data not estimate.

2. High population projection & occupancy rates are based on Council's study findings.

Source: Developed from Department of Planning data (1994) taking into account Council's study findings.

Major Townships

The four key townships of Tumut, Adelong, Batlow and Talbingo constitute 74% of the Shire's total population and 71% of its total dwelling stock. It is anticipated that the Shire's overall trend in population growth would be reflected on a pro-rata basis (0.4% per annum) in the larger townships: (Tumut and Batlow) and at a slightly lower rate (0.3% per annum) in the smaller townships (Adelong and Talbingo). Household/dwelling growth, whilst generally following the overall pattern for the Shire, is assumed to be influenced by household sizes currently evident within each township. There is in fact a relatively wide range of average household sizes in the Shire's four key townships. However in the projections, these variances are assumed to converge to the mean trend-line. Population and dwelling projections for each of the four townships have been produced and are tabulated in Table 4.2. They indicate a significant growth in Tumut and Batlow, with more modest growth anticipated in Adelong and Talbingo.

Table 4.2

POPULATION & DWELLING PROJECTIONS FOR MAJOR TOWNSHIPS

Year	TUMUT		ADELONG		BATLOW		TALBINGO	
	Popn	Dwells	Popn	Dwells	Popn	Dwells	Popn	Dwells
1991	5955	2136	795	294	1143	420	376	140
1996	6200	2260	830	345	1200	483	400	264
2001	6325	2430	845	350	1225	490	405	270
2006	6450	2580	855	365	1250	500	410	275
2011	6580	2630	870	370	1275	510	420	280
2016	6710	2795	880	380	1300	540	425	280
2021	6845	2915	895	400	1325	550	430	295

Note: (1) Population projections used for each of the townships are based on the high growth scenario for the Shire.
(2) Population & dwelling numbers rounded to the nearest 5.

4.3 NEXUS FACTORS

For the purposes of Section 94 Contributions, the growth in the following indicators would constitute a nexus with the provision of facilities and services:

- Growth in the number of dwellings in the case of open space and rural roads; and
- Growth in the amount of retail and commercial floorspace in the case of car parking.

Section 5 - METHODS AND TIMING OF PAYMENT

5.1 METHODS OF PAYMENT

There are three possible methods of payment for Section 94 contributions:-

- Monetary contribution;
- Dedication of land; and
- Works-in-kind Agreements.

5.1.1 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 Implicit Price Deflator (IPD), determined periodically by the Australian Bureau of Statistics. However, this can be offset by either of the following two methods of payment:

- Dedication of land; and/or
- Works-in-kind Agreements.

5.1.2 Dedication of Land

Where appropriate, Council will permit the dedication of land for open space, community facilities, roads or drainage to offset the monetary contribution payable. The land that is to be provided will need to be zoned in accordance with the intended use for the area. The assessment of the suitability of land for dedication will occur at the development or subdivision application stage. If consent is granted for a development, then the applicant is required 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.

Alternatives to Land Dedication

As an alternative to land dedication, Council will consider a cash payment instead of land dedication, where land is not able to be physically provided for open space; where Council considers that the parcel sizes are unreasonably small; or where Council considers that the land would not be suitably located for its intended purpose. The cash payment shall be equal to the average price per square metre for land suited for recreation uses and/or vacant residential land in the Shire (as appropriate for the type of dedication not able to be made) as determined by Council. Council will determine this figure on the basis of an average derived from recent transfers or by the use of a registered valuer.

5.1.3 Works-In-Kind Agreements

Council may accept the construction of amenities or facilities to offset the monetary contribution payable. Were Council to agree, the works provided must be in accordance with the schedule 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. Should the works-in-kind not be completed prior to the release of the final plan, then the applicant will be required to provide Council with suitable financial guarantees (normally by way of

a Bank Guarantee) for the amount of works outstanding. Upon the satisfactory completion of the works, the financial guarantees will be discharged by Council.

5.1.4 Contribution Discounting

Where appropriate, Council will consider discounting contributions. The degree of discounting would be in proportion to the potential community benefit provided by the development. Council will treat each case on its merits.

5.2 TIMING OF PAYMENT

Council has adopted the following policy regarding the payment of Section 94 contributions:-

1. Development Applications involving subdivision: Prior to the release of the final plan.
2. Development Applications involving building work: Prior to construction commencing.
3. Development Applications where no building approval is required: Prior to occupation.

5.3 DEFERRED PAYMENTS

In the event that Council agrees to a deferral, Council's policy regarding the deferred payment of Section 94 contributions is as follows:

- a) So that the value of the contribution does not diminish over time, the amount payable will be the amount specified in the relevant Section 94 Contributions Plan within Council's Fees & Charges Schedule at the time of payment.
- b) The period of time for deferred payment is flexible but will generally be limited to 12 months.
- c) Should Council grant such a request it will be conditional upon the applicant providing a suitable Bank Guarantee.
- d) Interest is charged on deferred payment of contributions at the rate of 3% per annum above the current Commonwealth Bank lending indicator rate.
- e) The amount of the Bank Guarantee shall be the sum of the amount of contributions outstanding at the time of deferment plus the "lost interest", over the time of the deferment. This amount will also represent the amount payable at the end of the deferred payment period.
- f) Council charges an administrative fee of \$150.00 for a deferred payment.
- g) In the event that the contributions are not paid by the due date, the Bank Guarantee will be called up by Council.
- h) All requests for deferred payments must be made in writing to Council and will be duly considered on their merits.

Council will allow payment of contributions upon sale of land subject to an appropriate restriction being placed on the title deeds to protect Council's interests. All legal costs associated with creating and extinguishing the restriction shall be at the developers cost.

5.4 REFUNDS

In the event that Council is unable to provide a service or facility so prescribed in the schedules of this Plan (or unable to provide an appropriate alternative as detailed in Section 3.2 of this Management Plan), monies so levied will be refunded to the applicant in full together with all interest accrued.

Section 6 - ACCOUNTING AND FUND MANAGEMENT

6.1 LOCAL GOVERNMENT ACCOUNTING STANDARDS

6.1.1 Legislative Framework

Section 94 of the Environmental Planning Act, 1979, as amended (1991) makes the following provisions for Council to levy contributions:-

- Under S94(1) land and/or money may be levied as a condition of consent when the development will require the provision of public amenities and public services;
- Under S94(2A) money may be levied to recoup the cost of public amenities and services provided in preparation for development in the area; and
- Under S94(2C) Council may accept land as a condition of S94(2A) or it may accept material public benefit in satisfaction under subsection S94(1) or S94(2A).

All forms of contribution will be accounted for by Council in accordance with the requirements of the Act, the Regulations made thereunder, the requirements of the Australian Accounting Standard (AAS27) "Financial Reporting by Local Governments" and the requirements of the "Local Government Code of Accounting Practice and Financial Reporting". All will be treated as revenue when received by Council. Land and other assets will be recorded as assets in Council's accounts.

Until expended in accordance with the Management Plan, a monetary contribution under Section 94(1) together with any additional amount earned from its investment will be held as a restricted asset. In its annual financial reports Council will disclose all receipts and expenditure of contributions and the status of the restricted assets. In addition, separate financial reports will be established giving details of work done, contributions held, funds applied for priority purposes and amounts of interest earned.

6.1.2 Requirements of AAS27

The national accounting standard (AAS27), issued in July, 1991, requires that for the purposes of general purpose reporting, all grants and contributions shall be brought to account as revenue when control is established over the asset. That is when the grant or contribution is received by Council.

It is also a requirement of the standard that where the provisions of the standard are in conflict with legislative requirements those legislative requirements would apply in addition to, but not in lieu of, the requirements of the standard. Consequently, for the purposes of general purpose reporting, developers' contributions in all forms will be brought to account by Council as revenue when received; and the requirements of the Department of Urban Affairs and Planning and the Department of Local Government and Cooperatives are satisfied through separate special purpose reports.

6.2 ACCOUNTING TREATMENT FOR SECTION 94 CONTRIBUTIONS

6.2.1 Accounting Treatment For Contributions Under S94(1)

The use of monetary contributions under Section 94(1) of the Act is restricted to the provisions of public amenities and services for which the contribution was required under

the Section 94 Contributions Management Plan. The contribution includes any interest earned from its investment.

Clause 41L of the Environmental Planning and Assessment Act, 1979 - Regulation prescribes the accounting and financial reporting requirements to be followed to maintain the restricted nature of the assets comprising unspent contributions.

Council will hold and disclose such monies as a restricted asset in accordance with paragraph 73 of AAS27 and the Local Government Code of Accounting Practice and Financial Reporting (1992).

To adequately meet these requirements, Council has established a spreadsheet called S94REGIS.XLS. With this spreadsheet separate accounts have been established for each precinct. Accounting records will be maintained for each precinct in such a manner as to enable monetary contributions to be differentiated from other funds held by Council. Accounting records have been established to facilitate the identification of the following information in respect of each precinct and each of the various categories of public amenities and services for which expenditure has been designated: -

- Contributions received (source and amount);
- Interest added;
- Amounts expended; and
- Amounts on hand to meet obligations to provide amenities and services.

6.2.2 Accounting Treatment For Contributions Under Section 94(2a) And 94(2c)

Contributions levied to recoup the cost of Council provided services in preparation for, or to facilitate, development in the area will be brought to account as revenue when received.

The revenue will be shown as Contributions in the Operating Statement in the General Purpose Financial Reports, and details included in the formal Notes to the Financial Statements.

Contributions received in the form of land or material public benefits will also be brought to account as revenue in the Operating Statement and appropriate assets created in the accounts. Details of those contributions will also be shown in the formal Notes to the Financial Statements.

6.2.3 Accounting Treatment For Contributions Currently Held By Council

In accordance with Clause 41L(4) of the Environmental Planning and Assessment Act, 1979 - Regulation, Council has established records that allow the following contributions under Sections 94(1) and 94(2A), together with any additional amounts accumulated from their investment, to be differentiated from all other income and expenditure of Council:-

- Contributions received before 28th February, 1992; and
- Contributions received after 28th February, 1992 but before 15th March, 1993 otherwise than in accordance with the contributions Management Plan.

These monetary contributions and any additional amounts earned from their investment have been held "in trust" by Council for the purposes for which the payments were required. These payments have been transferred from the former trust accounts to the

new accounting structure, maintaining the integrity of their use purposes. Existing contributions not related to contribution plans have been identified as a separate category of restricted asset

6.3 INVESTMENT OF SECTION 94 FUNDS

To maintain the real value of the Section 94 monetary contributions, Council will integrate these funds with its other monetary assets and invest them in accordance with the provisions of the Local Government Act, 1919 (as amended) as part of its money management procedures. Council normally maintains the following accounts and investments with its banks and financial institutions:-

- Current (cheque) account; and
- Term deposits and managed funds.

Section 94 monetary contributions will attract a rate of return based on an average annual investment rate.

6.4 BORROWING BETWEEN PURPOSE CATEGORIES

Council may borrow funds from a purpose category account to be used for another purpose category account, where this is considered necessary to ensure the logical and timely provision of facilities and amenities within the priorities set by this Management Plan.

Where a purpose category has borrowed funds, these shall be repaid by that purpose category account (including foregone interest as defined in Section 6.3 of this Management Plan) from Section 94 monetary contributions from the purpose category that has benefited.

6.5 PUBLIC ACCOUNTABILITY

To facilitate public accountability, Council will annually report the receipt and expenditure of contributions and the amount of monies held in the form of: General Purpose (consolidated) Reports.

6.5.1 General Purpose (Consolidated) Reports

The annual General Purpose (consolidated) Reports will incorporate the following:-

- A statement included in the Notes to the Financial Statements (significant Accounting Policies) will outline Council's obligations with respect to Section 94 contributions, together with a brief description of the contributions Management Plan adopted by Council.
- The quantum of contributions received each year and interest earned on investment of contributions will be recognised as revenue in the operating statement. The revenues in respect of each of the following categories of contributions will be disclosed in the Notes to the Financial Statements:-
 - (a) Land and Other Material Public Benefits;
 - (b) Public open space;
 - (c) Roads and Traffic;
 - (d) Car parking; and
 - (e) Other Services and facilities.

- A statement will be included in the Notes to the Financial Statements (Statements of Contribution Plans) disclosing the following information in respect of the quantum of monetary contributions (including interest) held as restricted assets under this Management Plan:-
- Amounts not expended at the close of the previous reporting period in the manner specified in contributions' plans.
- Total obligations for contributions not yet expended at the close of the current reporting period in the manner specified in this Management Plan.
- A statement will be included in the Notes to the Financial Statements (Conditions) disclosing information in respect of the quantum of monetary contributions held in restricted assets otherwise than under this Management Plan.
- The amounts held at the close of the year in cash and investments as restricted assets will be disclosed in the Notes to the Financial Statement (Investments).

Section 7 - REVIEW AND RIGHTS OF APPEAL

7.1 GENERAL PRINCIPLES

In accordance with the need both for flexibility and a degree of certainty, there is a requirement for a regular review of the Management Plan at intervals long enough to maintain consistency, yet short enough to enable Council to take account of the constantly changing development environment and needs of the community.

7.2 REVIEW PROCESS

The Plan will be reviewed once a year, corresponding with Council's annual budget setting and accounting cycle. The reviewed Management Plan will be duly adopted by Council and operational prior to 1st July each year.

Without prejudice to the above review provision, Council reserves the right to amend the Plan at any time in the event of a major development proposal being submitted to Council for its consent, which is judged to require a form and scale of Section 94 contributions, unforeseen in the Plan.

Community Consultations

The review procedure will incorporate the following community consultation process:-

- Public notice of Council's decision to review the Plan; and
- Public exhibition of the draft amended Plan for a period of not less than 28 days, during which submissions may be made to Council concerning the Plan.
- After considering any submissions received, Council:-
 - * May approve the draft amended Plan in the form in which it was publicly exhibited; or
 - * May approve the draft amended Plan in that form with such alterations as the Council considers appropriate; or
 - * May decide not to proceed with the amended Plan, maintaining the current Plan in its existing form.
- Public notice of Council's decision to adopt an amended Plan or to extend the currency of the existing Plan shall be given within 14 days after the decision has been made.

7.3 APPEAL RIGHTS

An applicant may lodge an appeal with the Land and Environment Court in response to a condition of consent that is imposed in accordance with the Plan.

Any matter relating to the actual procedure followed by Council in preparing the Section 94 Plan cannot be challenged except within the first three months after the Plan has been adopted by Council and public notice given in the local press.