



SECTION 94

DEVELOPER CONTRIBUTIONS PLAN

FOR

CENTRAL LIBRARY FACILITY

ADOPTED: 9/07/97
EFFECTIVE: 23/07/97

Amendments

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This developer contribution plan has been prepared in accordance with the Environmental Planning and Assessment Act, 1979, and Environmental Planning and Assessment Regulation, 2000.

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FACILITY**

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SUMMARY

This plan establishes the framework within which monetary contributions may be levied for the Provision of a Central Library Facility, on future development throughout the Shire of Wingecarribee.

The Central Library Facility was a joint venture between Council and NSW Area Health. The total cost of the facility was \$5,200,000 which was funded:

<u>Purpose</u>	<u>Council</u>	<u>NSW Area Health</u>
Legals	\$ 5,000	Nil
Computers	\$ 400,000	Nil
Fitout	\$ 240,000	\$ 275,000
Construction	\$1,955,000	\$2,025,000
Contingency	\$ 300,000	Nil
TOTAL	\$2,900,000	\$2,300,000

The contribution plan sets out a Works Schedule for the provision of a Central Library Facility required for use by residents of the Shire. A base contribution rate of \$229 per tenement has been derived for new development within the Shire of Wingecarribee.

Developers are required to contribute to the cost of providing a Central Library Facility at the above rate for newly subdivided rural or residential allotments and new residential flat development. (Contributions may be multiplied by 0.67 in the case of 2 bedroom residential flats. For 1 bedroom flats, contributions may be multiplied by 0.5).

The plan provides for the indexing of the base contribution rate on the basis of movement in the Consumer Price Index (CPI). Contributions may only be in the form of cash payments.

SECTION ONE : INTRODUCTION

1.1 BACKGROUND

Section 94 of the Environmental Planning and Assessment Act, 1979, empowers local Councils to levy monetary contributions from developers of new development for services and facilities required as a consequence of that development.

The ability to levy for contributions is contingent upon there being a demonstrated nexus or relationship between the contribution sought and the development proposed.

The Land and Environment Court has re-affirmed that three principles must be satisfied for the application of Section 94. These are:-

- the contribution must be for, or relate to a planning purpose;
- the contribution must fairly and reasonably relate to the subject development; and
- the contribution must be such as a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

Section 94 (1) of the Environmental Planning and Assessment Act, 1979, permits Councils to levy:

- to provide services or amenities to be carried out in the future from which the development or its occupants will benefit; and
- to recoup the cost of services or amenities provided in the past in preparation for or to facilitate development, and development, if carried out, will benefit from the provision of those public services or amenities.

Section 94 does not permit retrospective levying to satisfy service or amenity needs from existing development. Contributions may be in the form of cash payments, transfer or dedication of land to Council or the provision of material public benefit (works in kind), however the Council may in a Contributions Plan, specify that contributions must be of a certain type, eg cash contribution. This plan requires that contributions towards Council's Central Library Facility must be a cash contribution only.

1.2 PURPOSE OF THE PLAN

The purposes of this Contribution Plan are as follows:-

- To establish a legal framework within which monetary contributions are able to be levied for a Central Library Facility by the Council, on all future residential and rural/residential development throughout the Shire of Wingecarribee.
- To detail the method applied to the derivation of Central Library Facility contributions;
- To define the Central Library Facility Works Schedule; and
- To define the Central Library Facility contributions payment policies.

1.3 OBJECTIVES

The objectives of this plan are as follows:

- To establish contributions rates for a Central Library Facility appropriate to the needs and expectations of the community.
- To plan for the future requirements of a Central Library Facility to meet community needs and legislative requirements.
- To ensure that the cost of providing a Central Library Facility is financed on an equitable basis between current and future users.
- To establish the nexus between proposed new development and the need for providing a Central Library Facility.

1.4 SCOPE OF THE PLAN

The Section 94 Developer Contributions Plan - a Central Library Facility - Shire of Wingecarribee comprises three sections.

Section 1	:	Introduction
Section 2	:	The Nexus Between Forecast Development and future demand for a Central Library Facility
Section 3	:	Contributions Rates and payment policies etc.

1.5 LAND TO WHICH THIS PLAN APPLIES

This plan applies to all land within the Shire of Wingecarribee which can be subdivided, under the provisions of the Wingecarribee LEP 1989, to create an allotment for the purposes of the erection of a dwelling house or which under the same LEP can be developed for the purposes of a residential flat building.

1.6 DATE FROM WHICH THIS PLAN COMES INTO EFFECT

This plan was adopted by Council on 9 July 1997 and came into effect on 23 July 1997.

Contributions will be levied pursuant to this plan, as a condition of development consent granted on or after the day this plan came into effect, ie 24 July 1997

1.7 RELATIONSHIP BETWEEN THE PLAN AND OTHER EXISTING POLICIES OR PLANS

A number of environmental planning instruments apply to the development of land to which this Plan relates. They include State Environmental Planning Policies, The Illawarra Regional Environmental Plan No 1 and most importantly, Wingecarribee Local Environmental Plan (LEP) 1989.

SECTION TWO : THE NEXUS BETWEEN FORECAST DEVELOPMENT AND FUTURE DEMAND FOR A CENTRAL LIBRARY FACILITY

2.1 NEXUS

The basis for a Developer Contributions Plan is the nexus or relationship between proposed new development and the need for increased services and amenities generated by such development.

In this case, new residential and rural development (ie subdivision and the construction of residential flats) can be shown to express a need for a Central Library Facility.

2.1.1 EXISTING STANDARDS FOR THE PROVISION OF A CENTRAL LIBRARY

A central library generally provides a full range of services and resources for its local population as well as specialist staff and resources and facilities for the whole Council area. It is usually located centrally to its catchment population and is therefore the largest and busiest of the Council's libraries. It contains the administrative section for all the libraries and the central processing area, where library materials for the entire library system are processed and distributed.

Based on the 1990 State Library of NSW publication, "The Planning and Design of Public Library Buildings", the building area required to service community needs can be established by calculating the projected population of the catchment areas both of the central library and of the Council's library service as a whole, and applying to each figure a building area factor, according to the formulae based on population.

2.1.2 POPULATION PROJECTIONS

The Draft Wingecarribee Housing Needs Study Stage 1, dated 30 October 1996, provides population estimates based on the 1991 Census and Australian Bureau of Statistics. (At the date of that study results from the 1996 Census were not expected before June 1997).

A review of the development rates adopted in this plan was undertaken in 2005/6. The review concurred with the current estimates of around 325 lots per annum.

For the purpose of this contribution plan, it is proposed to adopt a predicted development rate consistent with the "Wingecarribee Our Future Strategic Plan", which is 325 lots/medium density units per annum.

Summary of annual anticipated development

Residential	325 lots/dwellings
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2.1.3 EXISTING LIBRARY

The total current floor space available to Bowral Library is fragmented and only totals some 334 square metres. The conditions are extremely cramped with the existing shelves being too close and too high (2.1 metres). There is no Information Technology Room, and only two computers which share a printer. There is also no specific area for

Periodicals which is located in a corridor and the Friends of the Library only have a cupboard allocated to them, which is in the staffroom. In addition the staffroom is used for inter-library loans, labelling and interviews. Overall, the existing facility is inadequate to meet both existing and future needs.

Council proposes to construct a library with a total floor space of 850 square metres. The open stack area will be expanded by comparison with the existing library. The shelves will be a maximum of 1.6 metres high and set out so patrons and staff can more easily access the books. (The children's collection will have shelves only 1.3 metres high.) An Information Technology Room will be provided, as well as an area set aside for Periodicals. There is to be proper garaging of the mobile library under cover which will extend the life of the vehicle and minimise damage to library materials which are currently exposed to the elements when they are being loaded and unloaded. There will be joint archival storage shared between the Historical Society and Council and a meeting area to be shared with the South West Sydney Area Health. Neither of these facilities is provided in the current building.

In conclusion, the present accommodation of Bowral Library was only ever planned to be a temporary arrangement. In building a new library facility there will be the advantages of a purpose built facility, not only with greater floor space, but which will also enable more efficient operation and enhance the capability to develop the services of the library, particularly with regard to new technology. Therefore, the necessity for a new Central Library Facility can be seen, the service having outgrown the existing building.

2.1.4 STATE LIBRARY REQUIREMENTS

The building area required for a central library can be established by calculating the projected population of the catchment areas of both the central and branch libraries and applying to each figure a building area factor according to the following formula:

$$\frac{\text{Population served}}{\text{and 1,000 1990}} \times \text{building area factor (Source: State Library "The Planning Design of Public Library Buildings")}$$

(taking into account the specified minimum total areas for each population range below).

This calculation is done for both public and work areas.

TABLE 3 - STATE LIBRARY STANDARDS

Library Space Allocation	Population Served Local Catchment Area	Building Area Factor (per 1,000 Population)	Public Area Not Less Than:
Public Access Area Component	20,001 - 35,000	minimum	420 square metres
	35,001 - 65,000	26 square metres 23 square metres	560 square metres 910 square metres
Work Areas Component	35,001 - 65,000	12 square metres	Work area not less than 455 sq. m.

The Shire's population growth is anticipated to be 52,646 people. This figure forms the basis of the calculation for the central library. The population catchments of the branch libraries of Moss Vale and Mittagong (including Welby), is estimated to be 19,457 people (p.29 of Stannard report for the year 2000 indexed).

CALCULATIONS

Central library with a local catchment of 33,189 (i.e. 52,646-19,457) people and Shire catchment of 52,646:-

Public area: $\frac{33,189}{1,000} \times 26 = 863$ square metres

Work area: $\frac{52,646}{1,000} \times 12 = 632$ square metres

TOTAL FLOOR AREA = 1,495 square metres

Therefore, the Shire will generate a need for 1,495 square metres of central library floor space, according to the State Library formulae.

2.1.5 PROPOSED FACILITY

The total floor area of the central library proposed by Council is designed to be 850 square metres. Although the area to be provided is less than suggested by the State Library's standards, the proposed building improves on the existing standard of provision at an affordable level. In addition the old Library building will also be utilised for the provision of archival facilities, Friends of the Library, and meeting rooms. This brings the total floor area able to be used for library facilities to 1184 square metres.

The standard to be provided will be an improvement based on a per capita ratio compared with the existing library. The current library provides 8.4 square metres per 1,000 population at present (which is totally inadequate), whereas the proposed library will provide 22.5 square metres per 1,000 population. (This amount whilst significantly more than the existing standard is still less than the NSW State Library Standard which calculates out at 28.4 square metres per 1,000 population, however the proposed standard is considered to be both reasonable and practicable.

The total estimated cost of the proposed Central Library Facility is \$2,900,000 (see Appendix No. 1 - Works Schedule).

This amount represents capital works improvements and related costs only and Council is not seeking to recover the value of any land component.

2.1.6 COST APPORTIONMENT

The building of a central library costing \$2,900,000 has been apportioned between the 1996 tenement estimate and 325 lots per annum as at May 2008.

The total cost component of the proposed library attributable to new development post 1996 is therefore calculated at 25% x \$2,900,000 which is **\$ 725,000**.

Council's contribution is the remaining \$ 2,175,000. Council has of recent years received Section 94 Contributions for a Central Library which will be used to offset some of the cost to be borne by Council on behalf of the existing population.

The contribution to be levied under Section 94 is calculated by apportioning **\$ 725,000** across the expected additional tenements taking into account the CPI and interest.

This means, therefore, that the existing 1997 community will have to contribute \$2,175,000 towards the proposed library project. This will include previous contributions that Council currently holds contributed to the construction of the Library. In addition previous contributions to the value of \$31,340 were expended by Council for professional fees to evaluate various sites and library proposals to progress to the currently adopted building plans. These costs have not been included as part of this Plan.

- NB It is intended to construct the central library by early 1998 and thence recoup the proportionate contribution of the post 1997 population by means of a Section 94 levy on new development up to the population of 52,646.

SECTION THREE : CONTRIBUTION RATES AND PAYMENT POLICIES

3.1 WHEN ARE CONTRIBUTIONS PAYABLE

A contribution must be paid to the council at the time specified in the conditions of consent for the development. Council requires that Developer Contributions be paid either:-

- (a) Prior to the release of a Linen Plan of Subdivision in the case of the creation of a residential or rural-residential (Zone 1(c)) allotment.
- (b) Prior to the release of any building approval/construction certificate in the case of multi-unit housing or other development.
- (c) Prior to the issue of occupation or interim occupation certificate in the case of affordable aged care housing provided by a not-for-profit organisations.

All approved development will be required to pay the contribution stated in their valid consent, *plus* any increase as a result of the review, *plus* any increase in contribution amount due to inflation as indicated by the Consumer Price Index (Sydney), in accordance with the wording of the condition given at the date of consent.

3.2 METHOD OF PAYMENT

Contributions may be made in the form of either cash; dedication of land or material public benefit with the approval of the Council.

Development consents requiring the payment of a Developer Contribution will contain a condition specifying the amount payable in monetary terms at the time the consent is issued. A note will be attached to the consent condition which will advise that the contribution rate charged will be that rate which applies at the time of payment, i.e. the rate may increase (through indexation or a review of the plan) from the time the condition appears on the notice of development consent until the time the contribution is actually paid to Council.

NOTE – Applicants should request an update of the rates applicable prior to payment to avoid delays.

3.3 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.

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 which satisfies the following criteria:

- Residential subdivisions;
- Medium density development
- Dual occupancy development
- Tourism development

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.

3.4 DEFERRED/PERIODIC PAYMENTS

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

- (a) compliance with the provisions of Clause 2.6 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.
- The amount in the guarantee must be in Australian Dollars.

3.5 REVIEW OF CONTRIBUTION RATES

To ensure that the value of contributions are not eroded over time by inflation, 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 review the contribution rates.

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

- Construction costs by the consumer price index (all groups Sydney average) as published by the Australian Bureau of Statistics.
- Land acquisition costs by reference to average land valuation figures either published by Council in Council's Management Plan or by a registered surveyor.
- Specific valuations for particular parcels of land that are identified in the S94 plan as published by the Council in Council's Management Plan.
- Changes in the capital costs associated with provision of administration and salary costs for staff involved in implementing Council's S94 plan by reference to increases in salary rates under the Local Government State Award Plan as published by the Council in Council's Management Plan.
- Changes in the capital costs of various studies and activities required to support the strategies in the plan by reference to the actual costs incurred by Council in obtaining these studies plan as published by the Council in Council's Management Plan.

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

For changes to the consumer price index (all groups Sydney average), the contribution rates within the plan will be reviewed on a quarterly basis in accordance with the following formula:

$$\$C_A + \frac{\$C_A \times (\text{current index} - \text{base index})}{\text{Base index}}$$

Where

$\$C_A$	is the contribution at the time of adoption of the plan expressed in dollars:
Current index	is the consumer price index as published by the Australian Bureau of Statistics available at the time of review of the contribution rate;
Base index	consumer price index is the Index name to be selected by the Council as published by Australian Bureau of Statistics at the date of adoption of this Plan which is insert index number at time of adoption.

Note: In the event that the Current consumer price index is less than the previous consumer price index, the Current consumer price index shall be taken as not less than the previous consumer price index.

3.6 ARE THERE ALLOWANCES FOR EXISTING DEVELOPMENT?

Contributions will be levied according to the estimated increase in demand. An amount equivalent to the contribution attributable to any existing (or approved) development on the site of a proposed new development will be allowed for in the calculation of contributions. In assessing the value of existing and future development the following occupancy rates will be used:

- Dwelling houses and single vacant allotments – 1 ET (equivalent tenement), unless in the case of boundary adjustments where an additional opportunity for a dwelling house is created.
- Other dwellings –
 - 3 bedroom units – 1 ET
 - 2 bedroom dwellings – 67% ET;
 - 1 bedroom units – 50% ET
- Tourist development – 25% per bed

Where a development does not fall within any of the items noted above, the Council would determine the credit on the basis of the likely demand that the existing development would create.

3.7 STAGED SUBDIVISION/DEVELOPMENT

In the event of a staged subdivision or development, Council will accept the staged payment of contributions as specified above.

3.8 DISCOUNT FACTORS

Council may waive or reduce Developer Contributions ordinarily attributable to subdivision and development, where the proponent demonstrates to Council's satisfaction that, it is a non-profit and charitable organisation, which by virtue of carrying out such development, is considered by the Council to be making a significant and positive contribution to the community.

3.9 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.

3.10 SAVINGS AND TRANSITIONAL ARRANGEMENTS

A development application which has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan which applied at the date of determination of the application.

APPENDIX No. 1 - WORKS SCHEDULE

CENTRAL LIBRARY FACILITY

The Central Library Facility was a joint venture between Council and NSW Area Health. The total cost of the facility was \$5,200,000 which was funded:

<u>Purpose</u>	<u>Council</u>	<u>NSW Area Health</u>
Legals	\$ 5,000	Nil
Computers	\$ 400,000	Nil
Fitout	\$ 240,000	\$ 275,000
Construction	\$1,955,000	\$2,025,000
Contingency	\$ 300,000	Nil
TOTAL	\$2,900,000	\$2,300,000

APPENDIX No. 2 - REFERENCES

- (1) "The Planning and Design of Public Library Buildings" - State Library of NSW 1990.

- (2) "Draft Wingecarribee Housing Needs Study Stage 1" - HSP Planners - October 1996

- (3) "Background Paper to Support Wingecarribee Shire Council's Section 94 Plans Review

Susan Stannard - May 1996

- (4) "Bowral Civic Centre Sketch Design Cost Plan" - Davis Langton and Beattie - Feb' 97