



# **COOMA-MONARO COUNCIL**

## **SECTION 94 CONTRIBUTIONS PLAN**

### **PART 1**

#### **MANAGEMENT AND ADMINISTRATION OF SECTION 94 CONTRIBUTIONS PLANS**

**As adopted by Council on 4 April 2005  
(Date of notice in local press)**

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# 1 INTRODUCTION

The Management and Administration of Section 94 Contributions Plans has been prepared within the legislative framework of the Environmental Planning and Assessment Plan, 1979 subsequent Regulations and Department of Planning Guidelines.

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 as PARTS to the Section 94 Contributions Plan as it is reviewed and amended by Council following community consultation. Services and facilities that may be required in the future may include but not limited to the following:

- Bushfire Risk Management
- Drainage
- Waste Management
- Aged Care Services
- Community Centres

## 2 LEGISLATIVE FRAMEWORK

Section 94 of the Environmental Planning and Assessment Act, 1979 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 or improvement of public amenities or services.
- Under S94(3)(a) money may be levied to recoup the cost of public amenities and services provided in preparation for development in the area.
- Under S94(5)(a) Council may accept land as a condition of S94(3) or it may accept material public benefit in part or full satisfaction of a condition imposed in accordance with subsection (1) or (3).

## 3 APPLICATION OF PART 1 OF SECTION 94 CONTRIBUTIONS PLAN

Part 1 of the Section 94 Contributions Plan shall apply to all other Parts (Part 2 and above) of the Section 94 Contributions Plan

## 4 ADMINISTRATION OF CONTRIBUTIONS

### 4.1 Methods of Payment

The Environmental Planning and Assessment Act, 1979 specifies three (3) possible types of Section 94 Contributions:

- Monetary contribution.
- Dedication of land.
- Works-in-Kind Agreements (Material Public Benefit).

Council will consider any other contributions other than monetary in accordance with Council's Policy on Administration of Section 94 Contributions Plans.

## 4.2 Timing of payment

When Council grants development consent for a development, which is subject to Section 94 Contributions, it shall at the time of granting its consent, state the contribution elements and the value of the Section 94 Contribution as determined in the Fees and Charges in Council's Management Plan.

A Section 94 contribution will have to be paid as follows:

- Development application involving subdivisions and building work – prior to release of the Construction Certificate.
- A development application where no building approval is required – prior to occupation and commencement of the approved activity.

Where the development is to be staged over a period, the contribution amount to be paid shall vary depending on the timing of the payment of the contribution. The amount that shall apply to a particular stage of development shall be the amount given in the Fees and Charges in the Management Plan at the time of payment.

## 4.3 Adjustment of Contribution Rates

Contribution rates are indexed on an annual basis, using as a guide the Consumer Price Index as published by the Australian Bureau of Statistics. The rate of contribution applicable for a given year shall be the rate given in the Fees and Charges in Council's Management Plan for that particular year.

## 4.4 Transitional Provisions

Transitional provisions handle the transition between any previous Section 94 Plan/s and the current Plan. This will be Plan specific and will be as specified in the relevant Part of the Section 94 Contributions Plan.

## 4.5 Review of Contributions

Any review of contributions including discounts shall be made to Council in writing. Council shall consider each application on its merits in accordance with Council's Policy on Administration of Section 94 Contributions Plans.

## 5 ACCOUNTING AND FUND MANAGEMENT

Any monetary contributions received under Section 94 and any additional amounts earned from their investment will be held in “reserve” by Council for the purposes for which the payments were required or raised.

Monies received under a contribution plan will be accounted for separately and distinguished from all other money held by Council to be applied specifically towards the works for which they were contributed.

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

## 6 REVIEW OF CONTRIBUTIONS PLANS AND RIGHTS OF APPEAL

### 6.1 Review Process

The amendments and repeal process of any Parts of the Section 94 Contributions Plan, shall be carried out in accordance with Section 32 of the Environmental Planning and Assessment Regulation, 2000.

### 6.2 Community Consultation

Community consultation shall be carried out prior to the adoption of any Part of the Section 94 Contributions Plan.

The Draft Section 94 Contributions Plan shall be exhibited for a minimum period of 28 days during which period any person may make written submissions to Council concerning the Plan.

The approval of Section 94 Contributions Plans shall be in accordance with Section 31 of the Environmental Planning and Assessment Regulation, 2000.

After considering any submissions received, Council may:

- approve the draft Plan in the form in which it was publicly exhibited; or
- approve the draft Plan in that form with such amendments as Council considers appropriate; or
- decide not to proceed with the draft Plan.

Public notice of Council’s decision regarding the Plan shall be given within 28 days after the decision has been made.

The Section 94 Contributions Plan shall come into effect on the date that public notice of its approval is given in the local newspaper.

## 6.3 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 Section 94 Contributions Plan.

Any matter relating to the actual procedure followed by Council in preparing the Section 94 Contributions Plan cannot be challenged except within the first three (3) months after the Plan has been adopted by Council and public notice of its adoption given in the local press.