



# NAMBUCCA VALLEY COUNCIL PROCEDURE

## PAYMENT OF DEVELOPER CONTRIBUTIONS SECTION 64 & SECTION 7.11 & 7.12 (previously S94 & S94A) PROCEDURE NO: DE 01

---

### Our Vision

Nambucca Valley ~ Living at its best

### Our Mission Statement

'The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.'

---

#### 1.0 Policy Objective

- 1.1 To ensure the payment of contributions pursuant to Section 7.11 and Section 7.12 of the Environmental Planning and Assessment Act 1979 and Section 64 of the Local Government Act are paid in a timely manner and no prejudice is caused to the operation of the contribution plans.
- 1.2 Consistent with section 1.1 and after carefully assessing the financial risk to Council, provide for deferred payment arrangements which will reduce a developer's holding costs as a means of encouraging economic development through increasing the capacity to reduce prices and increase return on investment.

#### 2.0 Policy Statement

##### PAYMENT OF SECTION 7.12 CONTRIBUTIONS

The payment of contributions will be noted as a requirement in a condition of development consent in accordance with the provisions of Council's Section 7.12 Development Contributions Plan and should be made at the following times:

##### Development applications involving subdivision

- Prior to the release of the subdivision certificate.

##### Development applications involving building work

- Prior to the release of the construction certificate.

##### Development applications where no building work is involved

- Prior to the issue of an occupation certificate or within one month from the commencement of the development consent, (whichever occurs first).
-

### **Complying development applications**

- Prior to the commencement of works.

Contributions will not be charged as part of the first development application/complying development application for a dwelling on a lot where section 7.11 (94) contributions were paid when the lot was created. All subsequent development applications on the lot would then be charged section 7.12 contributions if:

- The value of works exceed \$100,000; and
- Additional bedrooms are proposed resulting in more than 3 bedrooms in the dwelling; or the land was not charged roads contributions when it was subdivided.

### **PAYMENT OF SECTION 7.11 CONTRIBUTIONS (Extractive Industries)**

The payment of contributions is required annually by 31 July for extracted material for the preceding one year period to 30 June or within 30 days of completion of the extraction works for minor extraction operations. The requirement for payment will be a condition of consent for a mine or extractive industry.

### **PAYMENT OF SECTION 64 CONTRIBUTIONS**

The payment of contributions will be noted as a requirement in a condition of development consent in accordance with the provisions of Section 64 of the Local Government Act and should be made at the following times:

#### **Development applications involving subdivision**

- Prior to the release of the subdivision certificate.

#### **Development applications involving building work**

- Prior to the release of the construction certificate.

#### **Development applications where no building work is involved**

- Prior to the issue of an occupation certificate or within one month from the commencement of the development consent, (whichever occurs first).

### **Complying development applications**

- Prior to the commencement of works.

### **DEFERMENT OF PAYMENTS**

Council will accept a deferred or periodic payment of contributions subject to the contribution being secured by Bank Guarantee and the deferment being no longer than 2 years. In such a case the applicant must make a written request.

Council will require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on the condition that:

- 1 indexing will be calculated from the date the contribution was due until the date of payment;

- 2 the bank guarantee be by a bank for the amount of the total contribution, or the amount of any outstanding contribution, plus an amount equal to twenty five (25) months interest plus any charges associated with establishing or operating the bank security;
- 3 the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than twenty four (24) months from the provision of the guarantee or completion of the work;
- 4 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;
- 5 the banks 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;
- 6 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 has been paid;
- 7 the applicant will be charged an administrative fee based on the professional fees set in Council's Revenue Policy;
- 8 periodic payments for a staged development will be on a pro rata basis - the proportion of the stage of the development is to the overall development.
  - a. Any evidence of pre-sales;
  - b. Whether or not the developer is agreeable to Council securing all of part of the debt by way of a registered mortgage.
  - c. Any other matter relevant to assessing the financial risk to Council.

### **Waiver of fees for secondary dwellings**

Contributions do not apply to development for the purposes of a secondary dwelling with a floor area up to and including 60m<sup>2</sup> (within external walls).

### **Contributions not payable**

Contributions are not payable for outdoor dining areas so long as they remain uncovered, with the exception of shade sails.

## **History**

<b>Department:</b>	Development & Environment	<b>Last Reviewed</b>	<b>Resolution Number</b>
<b>Procedure Category</b>	Organisation	16/7/2008	
<b>Endorsed By:</b>	General Manager	16/4/2009	
<b>Approval Authority</b>	General Manager	20/10/2010	
<b>Procedure Owner</b>	MD&E	11/6/2015	
<b>Contact Officer</b>	MD&E	<b>13/8/2015</b>	<b>972/15 (Trim 2225300/2015)</b>
<b>Document No.</b>	30410/2017	31/8/2017	437/17 (Trim 34178/2017)
<b>First Adopted</b>	16 July 2008	14/11/2019	553/19 (CM9 #42526/2019 &

			44444/2019)
<b>Resolution No:</b>			
<b>Review Date:</b>	November 2019		
<b>Resolution No:</b>	454/21 (Meeting::11/11/2021)		
<b>Updated:</b>	7 December 2021 (#30410/2017)		

