

**Name of Policy:** Section 94 Development Contributions Assessment

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**Responsible Division:** Corporate & Community Services

**Responsible Section:** Finance

**Related Council Documents:**

**Relevant Legislation :** Environmental Planning & Assessment Act 1979 (as amended) and its related Regulations 2000 (EPAA)

Effective Date - 1 July 2014

## 1. INTRODUCTION

The intention of this Policy is to nominate a relationship between the contributions levied for a single density dwelling lot (one lot with one dwelling entitlement or one equivalent tenement ET) and the contributions levied upon other development types for Section 94 (S94) Contributions under Council's Development Contributions Plans.

## 2. POLICY OBJECTIVE

To provide simple and standard criteria to assess contributions for developments under Section 94 of the current Environmental Planning and Assessment Act 1979 (As Amended) and its related Regulations 2000 (EPAA).

## 3. POLICY SCOPE

This Policy applies to all development consents that would normally require the payment of S94 development contributions.

## 4. DEFINITIONS

**Note:** The following definitions for S94 applications are intended to be more condensed and restrictive than those contained in the Council's LEP 2013 and if there is any confusion and/or contradiction between the respective definitions then these S94 definitions, contained in this Policy document, will apply only to S94 specific matters.

**Bed & Breakfast Establishment** - means an existing dwelling in which temporary or short-term *tourist and visitor accommodation* is provided on a commercial basis by the permanent residents of the dwelling and where:

- (a) meals may be provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

For S94 applications, such Bed and Breakfast accommodation is to be no more than two (2) bedrooms and is not to include self-contained accommodation.

**Bedroom** - means any enclosed habitable room that is capable of being used for sleeping purposes, including any study or similar utility room.

**Note:** Council may use discretion to determine whether a particular room is to be regarded as bedroom for the purposes of this definition by having regard to the nature of the design and/or layout of the room and its situation in the building.

**Development** - means:

- the erection of a building on that land
- the carrying out of a work in, on, over or under that land
- the use of that land or of a building or work on that land
- the subdivision of that land.

**Residential Development** - means any use listed in Schedule 1 whether or not the use is intended for temporary, short term, long term, permanent, or tourist accommodation.

**Non-Residential Development** – means any use not already included in the definition of Residential Development above (as a guide only, many of the typical Non-Residential Development Types are listed in Schedule 2 below).

## **5. LEGAL & POLICY FRAMEWORK**

This policy clarifies the method of calculation of development contributions to be applied in accordance with Council's Current Development Contributions Plans prepared in accordance with S94 of the EPAA.

## **6. POLICY STATEMENT**

### **6.1 Contribution Rates**

Schedule 1 lists the percentage of contributions compared to an "equivalent tenement" (i.e. a standard residential lot) for the various Residential uses covered by this policy.

Schedule 2 lists the criteria for assessment of respective infrastructure demand-based S94 Contributions (except for Roads and Traffic Management, and Road Haulage) for Non-Residential development/land uses.

### **6.2 Short Term Emergency Accommodation**

Developments involving short term emergency accommodation primarily for stays of less than two (2) weeks are exempt from the payment of S94 contributions, provided that the community organisation carrying out the development has received endorsement for the project as a deductible gift recipient by the Australian Taxation Office under the category of a "public benevolent institute".

Exempt development under this clause is not included in the calculation of demand under Council's S94 Development Contributions Plans. Any shortfall in contributions resulting from exempt development is to be met by the relevant S94 Contributions Plan(s).

### **6.3 Development by Non-Profit Organisations**

Development by non-profit organisations on Council owned or controlled land is exempt from the payment of development contributions, provided that the Council determines that the development is for an essential community service.

Exempt development under this clause is not included in the calculation of demand under Council's S94 Development Contributions Plans. Any shortfall in contributions resulting from exempt development is to be met by the relevant S94 Contributions Plan(s).

### **6.4 Determination of Applications with Concessions, Discounts, Exemptions Variations and/or Credits to Contributions**

Under this Policy only a Council Resolution is to determine development applications with Contributions' Concessions, Discounts, Exemptions, Variations and/or Credits (except "original lot" and "original dwelling" credits – refer Clause 6.7.1 below).

### **6.5 Secondary Dwellings (“Granny Flats”)**

No S94 contributions apply to development for the purposes of a secondary dwelling (“granny flat”) with a floor area up to and including 60m<sup>2</sup> (within external walls) on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling.

### **6.6 Strategic and/or Community Beneficial Development**

For what Council deem to be Strategic and/or Community Beneficial Developments, Council may use its discretionary powers authorised by Council Resolution to allow Concessions, Discounts, Exemptions, Variations and/or Credits to S94 Contributions determined according to the current S94 Contributions Plans under this Policy.

**Note:** Council may establish some specific criteria for such decisions.

### **6.7 Application of Credits to Contributions for Various Developments**

#### **6.7.1 Residential Developments**

Contribution Credits will be applied as follows:

1. The original lot in a residential and rural subdivision gains one (1) ET credit towards S94 contributions for a subsequent new development (i.e. the original “un-subdivided” lot is assumed to have paid).
2. The original dwelling on a residential lot gains one (1) ET credit towards S94 contributions for a subsequent new development (i.e. the original “un-subdivided” lot is assumed to have paid).
3. The contribution rate for a dual occupancy, villa, townhouse or residential flat development is the number of dwellings multiplied by the appropriate dwelling rate minus one (1) ET rate.
4. Any other S94 Contributions Credit deemed reasonable by Council resolution.

**Note:** Council may establish some specific criteria for such decisions.

#### **6.7.2 Non-Residential Developments**

Contribution Credits will be applied as follows:

1. The actual value of the S94 Contributions previously paid based on a specific number of “one-way” trips for the “Non-Residential” Development(s) being developed will be the basis for determining the S94 “Roads and Traffic Management” Contributions Credit to apply, and
2. If an existing “Non-Residential” Development/Land Use is being developed then the S94 Contributions previously paid based on the declared value of the previous “Non-Residential” Development will be the basis for determining the S94 “Headquarters” Contributions Credit to apply, and
3. If an existing “Non-Residential” Development/Land Use is being developed then the actual value of the S94 Contributions previously paid based on the “Motor Vehicle and/or Bicycle Parking” for the “Non-Residential” Development(s) being developed will be the basis for determining the S94 “Motor Vehicle and Bicycle Parking” Contributions Credit to apply, and

4. There will no credit given for S94 “Road Haulage” Contributions paid unless the haulage did not actually occur and the previous development had actually paid for them, and
5. Any other S94 Contributions Credit deemed reasonable by Council resolution.

**Note:** Council may establish some specific criteria for such decisions.

### **6.7.3 Change of Use Developments**

Contribution Credits will be applied as follows:

1. The S94 Contributions Credits Value will be determined by the respective S94 Contributions actually paid while considering whether the actual components of S94 Contributions so paid still apply to the actual Development Type being assessed by Council,
2. As a guide, a Development Application for a change of use from Residential to Non-Residential will not gain a S94 Contributions Credit for Motor Vehicle Parking because it never paid nor was credited for such S94 Contribution in the first place.
3. Any other S94 Contributions Credit deemed reasonable by Council resolution.

**Note:** Council may establish some specific criteria for such decisions.

### **6.7.4 Contributions Credits for Works in Kind and Material Public Benefit**

1. Developments which provide a related and already planned Contribution of “Works in Kind” (e.g. land for open space area and/or embellishment) may be allowed to pay a reduced S94 Contributions amount in recognition of the said works in kind. The amounts of reduction will generally be in proportion to the value of land, building and works provided.
2. Developments which provide “a significant and timely” Material Public Benefit in line with Council’s Strategic Plans may be allowed to pay a reduced S94 Contributions amount in recognition of the said works in kind. The amounts of reduction will generally be in proportion to the value of land, building and works provided.

**SCHEDULE 1**

<b>Description</b>	<b>%ET</b>
<b>A house</b> - single density (one lot with one dwelling entitlement) detached dwelling in RU2 Rural Landscape, RU3 Forestry, RU5 Village zones (eg managers residence or rural worker's dwelling)	100%
<b>Flats, units, town houses, villas, dual occupancies, integrated Housing</b> designed for lots less than 450m <sup>2</sup> etc. and permanent self-contained caravan park accommodation	
one (1) bedroom	41.67%
two (2) bedroom	75.00%
three (3) bedroom	91.67%
four (4) or more bedrooms	100.00%
<b>High Density (3 or more storeys)</b>	
one (1) bedroom	41.67%
two (2) bedroom	75.00%
three (3) bedroom	91.67%
four (4) or more bedroom	100.00%
<b>Secondary Dwelling ("Granny Flat")</b> – with a floor area up to and including 60m <sup>2</sup> (within external walls). Refer to Clause 6.5.	Nil
<b>Secondary Dwelling (other than "Granny Flat")</b> <i>Note:</i> See flats, units, townhouses. etc	
<b>Boarding houses, guest houses, hostels, B&amp;Bs etc</b>	
- not self-contained, shared facilities for cooking, laundry and bathrooms per bedroom not dormitory or bunk rooms	41.67%
- partially self contained, shared facilities for cooking & laundry but own ensuite per bedroom not dormitory or bunk rooms	41.67%
- not self-contained, shared facilities for cooking, laundry and bathrooms - per bed, dormitory or bunk rooms	20.83%
- partially self-contained, shared facilities for cooking & laundry but own ensuite per bed, dormitory or bunk rooms	20.83%
- B&Bs are currently contributions (exempt for a 12-month trial period) Refer Clause 4 (above) - Bed and Breakfast Establishment	Nil
<b>Motel Unit</b>	
- partially self-contained (shared facilities for cooking & laundry but own ensuite)	41.67%
- self-contained (ensuite and kitchen) equates to a 1 bedroom unit	41.67%
<i>Note:</i> For motel suites in excess of 1 bedroom, apply the percentages for high density units above.	
<b>Aged unit</b> where the development is approved under SEPP (Seniors' Living) or the Applicant demonstrates to Council's satisfaction that the development will be occupied by older persons as defined in the SEPP and the maximum occupancy for any unit is 2 persons	
- self-contained (ensuite & kitchen) 1 bedroom	41.67%
- self-contained 2 bedroom	54.17%
- self-contained 3 or more bedrooms	75.00%
<b>Nursing Home/Hostels</b>	
- High Dependency/Residential Care Facility (per bed)	Nil
- Low Dependency/Hostel (per bed)	41.67%
<b>Caravan parks and or camping sites</b>	
- transient, not permanent (not self-contained)	41.67%
- transient, not permanent (partially self-contained)	41.67%
- permanent (not self-contained)	41.67%
- permanent (partially self-contained, ensuite)	41.67%
- permanent (self-contained, ensuite & kitchen) <i>Note:</i> see flats, units, townhouses etc.	

**SCHEDULE 2**

<b>Commercial</b>	<b>Unit</b>
Shops - Dry Trade	m <sup>2</sup>
Shops - Florists, Garden Supplies, Supermarkets	m <sup>2</sup>
Shops - Food & Assoc Hairdressers	m <sup>2</sup>
Restaurants, Cafes, Coffee Shops, Etc	m <sup>2</sup>
Drive In Restaurants, Liquor Stores, Etc	m <sup>2</sup>
Offices, Banks, Professional Rooms, Etc	m <sup>2</sup>
Professional Consulting Rooms (Dentists, Doctors, Etc)	m <sup>2</sup>
Car Sales	
• Showrooms, Etc	m <sup>2</sup>
• Open Display Area	m <sup>2</sup>
Service Stations	
• Workshop, Etc	m <sup>2</sup>
• Driveway Etc	m <sup>2</sup>
Car Wash	m <sup>2</sup>
Tyre Sales and Service	m <sup>2</sup>
Multi-purpose Recreational Complex	m <sup>2</sup>
Squash Courts	m <sup>2</sup>
Ten Pin Bowling Alley (Service Area)	m <sup>2</sup>
Marinas, Boating Facility	
• Showroom	m <sup>2</sup>
• Display & Storage	m <sup>2</sup>
• Ramps, Slips, Jetties	m <sup>2</sup>
Brothel	Room
<b>Industrial</b>	<b>Unit</b>
Low Service Loading - Warehouses, Timber Mills, Hardware	m <sup>2</sup>
Supplies, Furniture Manufacture, Transport Terminals, Joinery	m <sup>2</sup>
Plumbers Supply, Fuel Depots, Dry Food Processing	m <sup>2</sup>
Manufacturing and Packaging	m <sup>2</sup>
Medium Service Loading - Steel Fabrication, Panel Beaters	m <sup>2</sup>
Motor Workshops, Frozen Foods, Oyster Processing	m <sup>2</sup>
Heavy Service Loading - Ready Mixed Concrete Plant, Concrete	m <sup>2</sup> Site
Products, Commercial Nursery, Market Garden	m <sup>2</sup> Site
Very Heavy Service Loading - Laundries, Dry Cleaners, Cordial	m <sup>2</sup>
Factory, Slaughter Yards, Wet Food Processing Etc	m <sup>2</sup>
<b>Other</b>	<b>Unit</b>
Licensed Clubs	
• Social (RSL Etc)	As for Hotels
• Bowling - Clubhouse	As for Hotels
• Bowling - Greens	Green
• Golf - Clubhouse	As for Hotels
• Golf - Course	Hole
Churches	No Charge
Church Halls, Theatres, Etc	m <sup>2</sup>
Schools, Educational Establishments, Child Care	Pupil
Funeral Parlour	No Charge
Hospitals (For Hospices & Nursing Homes see Schedule 1 above)	Bed
Hotel	
• Service Area (Including Bar, Lounge, Beer Garden)	m <sup>2</sup>
• Toilets	m <sup>2</sup>

