

MACLEAN SHIRE COUNCIL

S.94 CONTRIBUTION PLAN
FOR
MAINTENANCE
OF
QUARRY ROADS

Adopted November, 1994

ADDED 11/11

**~~Part~~ s.94 Contribution Plan for the maintenance of roads used by
extractive industry trucks**

1. Citation

This Plan has been prepared in accordance with the requirements of s.94AB of the Environmental Planning and Assessment Act, 1979.

2. Purpose of the Plan

The purpose of the Plan is to enable the levying of s.94 contributions for the maintenance of roads used by extractive industry trucks in Maclean Shire.

3. Aims and objectives of the Plan

The aims and objectives of this Plan are to:

- (a) enable Council to comply with s.94(7) of the EPA Act,
- (b) provide guidance for both Council and quarry operators,
- (c) provide fair and equitable formulae on which Council can levy contributions,
- (d) identify the land to which the Plan applies,
- (e) establish the nexus between the cost of maintaining those roads used by extractive industry trucks and the increased maintenance that is required on them as a result of their use by extractive industry trucks, and
- (f) set out:
 - (i) the formulae to be used for determining the contributions required for maintenance, and
 - (ii) a works schedule for the maintenance of the roads together with an estimate of their cost and staging.

4. The land to which the Plan applies

The Plan applies to those roads within the Shire of Maclean which are used by extractive industry trucks.

5. Nexus

- A. All material extracted from quarries in the Shire is transported by heavy vehicle.
- B. It is the use of roads by heavy vehicles that causes damage to their structure resulting in regular maintenance of them being required.

C. The quarry development should contribute to the cost to Council of maintaining those roads used by those heavy vehicles generated by the quarry development (s.94(1b)).

6. Assessment of contributions

Quarry developers should contribute annually to the cost of maintaining those roads used by heavy vehicles transporting material from their quarries in proportion to the increased use of those roads due to quarry traffic.

The roads on which the contribution will be assessed are those roads from the quarry to the nearest arterial or sub-arterial road.

The contribution is based on the average annual cost per kilometre to Council to maintain a road to the standard to which it is constructed. This cost will vary, depending on the nature of the road. These costs are currently:

For an unsealed gravel road	\$1,340/kilometre
For a minor council road	\$2,357/kilometre
For a major council or minor main or regional road	\$2,936/kilometre

Where the roads used by the extractive industry trucks fall into more than one of the above categories, then a separate contribution will be assessed in relation to each category of road and the contribution payable will be the sum of those assessments.

Where a road is upgraded during the lifetime of the quarry, then all future contributions shall reflect that upgrading.

Council is aware that damage to roads is increased with the number of axles on a truck. For example, the damage caused by a single axle truck is less than that caused by a triple axle truck. In order to give effect to this variation, truck movements are assessed according to the total ESA, rather than to total truck movements.

7. Formulae

Road maintenance

$$\text{Contribution} = \frac{(L \times M)}{T} \times Q$$

where:

L = the total length of the road in kilometres

M = the cost of maintenance per kilometre

T = the total number of ESAs using the road annually

Q = the anticipated total number of ESAs using the road from the quarry development annually.

ESA means equivalent standard axle and is equal to a single axle with dual wheels producing a payload of 5t.

Q shall be assessed in advance and based on:

- (a) the total amount of material to be extracted from the quarry in any particular 12 month period as set out in the development consent or in the management plan, and
- (b) the usual type of truck used to transport the material, from which the ESA will be calculated (Council will rely on the quarry operator to advise it of the typical type of truck employed, otherwise Council will make an assessment on the basis that a triple axle truck is employed).

At the commencement of each 12 month period, Council shall forward to each quarry operator in the Shire a notice setting out the annual contribution payable by that operator under this Plan. That notice shall require that contribution to be paid by equal quarterly instalments.

If, at the end of any quarterly period to which a contribution relates, the amount of material actually extracted during that period is in fact less than one quarter of annual amount on which the contribution is assessed, and the quarry operator can produce documentary evidence to this effect to the satisfaction of Council, then Council will reassess that quarterly contribution.

Such evidence should take the form of true certified copy weighbridge or other returns showing the true quantities of extracted material transported from the quarry during that quarter.

NOTE: Should any operator notify Council of any reduction in the amount of material extracted in any quarter as set out above, then the total amount of material that that operator may extract in the 12 month period to which that quarter relates shall be reduced by the amount of that quarterly reduction notified to Council **UNLESS** the operator requests and Council agrees that the amount of the reduction be added to the amount payable in the next quarter.

Council has the right to inspect and have the original records relating to any of the extracted material, including numbers and types of laden trucks and trailers and load quantities, transported from a particular quarry audited by any person nominated by its Finance Manager at any time as and when he may by written request so require.

8. Exemptions

Notwithstanding any other provision of this Plan, no contribution is payable:

- (a) if the amount of material to be extracted in any one year is less than 300 cu.metres, or
- (b) unless the truck movements from the quarry are on public roads, and then only to the extent of movements on public roads.

On receipt of a notice from Council setting out the contribution payable in any quarter, the operator may notify Council that the truck movements are confined to private roads or partly to private and partly to public roads (and shall identify those public roads). Provided that Council is satisfied with this advice, Council shall adjust the contribution accordingly.

9. Payment of contributions

Contributions will be required to be settled by one or a combination of the following methods:

- (a) monetary contribution, and/or
- (b) provision of a material public benefit, ie. works "in kind".

Timing of contributions

Contributions are required to be paid by quarterly instalments as set out above.

Council shall assess, on the anniversary of the date of development consent, the contribution to be paid under this Plan in respect of any particular quarry and shall notify the quarry operator in writing of that amount.

Deferred payment

Council will consider deferral of the payment of contributions upon application in writing. The applicant will need to provide valid reasons for the deferral of contributions and a decision as to whether or not to grant approval will be entirely at the discretion of Council.

If the application for deferral is accepted, the following conditions will apply:

1. A Bank Guarantee will be required to be lodged for the full value of the contribution(s). The applicant will be responsible for all charges involved in servicing the guarantee. The Bank Guarantee must identify a date after which Council may convert the Guarantee to cash. It may be possible to extend this date subject to negotiation with Council and adjustments to the value of the Guarantee to reflect changes in the rates in the Plan.
2. The amount of contribution outstanding will be indexed by the New South Wales Department of Main Roads Cost Rise Index so that the value of the contribution does not diminish over time. Indexing will be calculated from the date on which the contribution was due to the date of payment.

Works "In Kind"

A decision as to whether to accept the provision of works "in kind" will be at the discretion of Council. Factors Council will take into consideration include:

- (a) the extent to which the works satisfy the road maintenance requirements, and
- (b) the practical value of the contribution.

10. Works' Schedule

All contributions raised will be fully expended within 12 months of the date on which they are paid to Council. They will be spent on the specific roads to which they relate.

11. Indexing factors

All average maintenance costs referred to in the formulae shall be updated annually to reflect the actual costs to Council of undertaking the works to which they relate over the preceding 12 months.

12. Definitions

"extractive industry" means:

- (a) the winning of extractive material, or
- (b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

"extractive material" means sand, gravel, clay, turf, soil, rock, stone or similar substances.