

ULMARRA SHIRE
COUNCIL

Policy: *Section 94 Contribution Plan*
Extractive Industries

Policy Number: *S50*

Date Adopted: *18th January, 1995*

Minute Number: *21*

"A quality lifestyle and environment for all"

ULMARRA SHIRE COUNCIL

SECTION 94 CONTRIBUTION PLAN

EXTRACTIVE INDUSTRIES

PART A - INTRODUCTION

1. Citation

This plan may be referred to as the "Ulmarra Section 94 Contributions Plan - Extractive Industries". It has been prepared in accordance with the requirements of the Environmental Planning and Assessment Act, 1979.

2. Purpose

The purpose of the plan is to enable Council to levy developer contributions for road upgrading which will be required as a consequence of increased traffic demand generated by the development of extractive industries within the area of Ulmarra Shire Council.

3. Aims and Objectives

The aims and objectives of the plan are:

- (a) to provide a basis to levy developer contributions;
- (b) to identify the roads which Council intends upgrading;
- (c) to establish a nexus between proposed developments and contributions sought;
- (d) to enable early and ongoing upgrading of affected roads;
- (e) to encourage public participation in the formulation of the plan;
- ~~(f) to provide persons engaged in extractive industries with early advice as to the amount of contributions which will be required for various extractive developments;~~
- ~~(g) to facilitate proper financial management and accountability for expenditure of contributions received.~~

4. Relationship to Environmental Planning Instruments

This plan enables the Council to levy developer contributions for extractive industries permissible under Ulmarra Local Environmental Plan, 1992.

5. Land to Which This Plan Applies

This plan applies to all land within Ulmarra Shire as identified in the series of maps referred to in Ulmarra Local Environmental Plan, 1992.

6. Assessment of Contributions

Assessment of the amount of contributions for specified road upgrading will be based on the estimated increase in traffic volumes and intensity generated by the proposed extractive industry and an assessment of the level of demand created for new roads and traffic routes. This is referred to as the "nexus" between the extractive industry and the Section 94 levy. The amount of contribution is based on the amount of extracted material won; the length of road providing the shortest possible or most likely route from the extractive industry site to the State Highway or where the haulage vehicles cross out of the Shire area and the size of vehicles used to haul the extracted material.

The provision of improved roads will be staged to commence when increased traffic movements reach critical thresholds in relation to the existing standard of the road. Section 94 contributions may either be obtained in advance of the provision of improved roads or as a recoupment of Council funds spent in advance and in anticipation of a perceived need arising from an extractive industry development. Recoupment will only occur where roads have been improved in anticipation of, and are of benefit to subsequent development, and subject to demonstration that there is a nexus between the proposed development and the road upgrading carried out. It should be clearly understood that this provision is inserted into the plan in order to discourage a developer from delaying an extractive industry enterprise until another developer commences operation in a nearby site. It is possible that Council may also impose conditions of consent that may require remedial measures to be taken to overcome possible nuisances arising from the proposed activity.

7. Formula for Contributions

The formula for calculating the amount of contribution takes account of the type and length of road in question and the end use of the extracted material. It is based on a consideration of:

- a) the additional demand generated by the development, based on a rate per cubic metre of material extracted, and the distance hauled within the Shire, and the status of the roads over which the material is hauled.
- b) the current cost of upgrading roads, including, where appropriate, the current cost of acquiring land for road widening purposes.
- c) the application of the discount factor referred to in Clause 9.

Contribution rates will be as determined in accordance with sections 11 to 13 of this plan, and the formula may be applied so as to calculate different contribution rates for different classes of roads over the route of travel of haulage vehicles.

3. Apportionment

Apportionment rates are determined by assessing the increased heavy traffic loading caused by the proposed extractive industry in relation to existing conditions. Where detailed information is not available, existing heavy vehicle counts will be taken as a percentage of the Annual Average Daily Traffic (AADT). The percentage rate will be a figure determined by the Roads and Traffic Authority (RTA). Currently the rate ranges between 5-10% depending on location.

9. Discount Rates

In some instances, Council may further discount contribution rates by a specified factor. The purpose of this additional discount factor may vary, but may relate to factors such as Council's desire to encourage extractive industries in a particular location, to make a contribution rate less onerous, to assist in the construction of roads within the Shire, or where the end use of the extracted material will be of particular benefit, or of material public benefit, to residents of the Shire.

10. Annual Adjustment

The contribution rates arrived at, by calculation of the formula referred to in Clause 13, will be indexed annually, in line with movements in the R.T.A. Road Cost Index, of costs referred to in Schedule 1 and where applicable, land acquisition costs.

11. Works Required

Council will identify the works required to upgrade roads serving the proposed extractive industry site, and the proposed routes of travel within the Shire of vehicles hauling the extracted material. This information, together with details of timing and costs, is contained in schedule 2. If, during the life of the activity, a major alteration in routes of travel occurs, Council will reassess the works required, and therefore the contribution payable.

12. Nexus

The following factors are relevant in determining the nexus between the proposed extractive industry, and the demand for upgrading roads:

- (a) The amount of traffic that will be generated by the extractive industry will require the upgrading of roads within the Shire. The length of road used in the assessment of contribution rates will be the shortest possible or most likely route from the extractive industry site to the State Highway or where the haulage vehicles cross out of the Shire area.
- (b) It is reasonable that the cost of these works be apportioned between the proposed extractive industry and the existing land owners, or other land users, who will benefit from road upgrading. The apportionment will be determined by examining the increased traffic generated by the proposed extractive industry against existing conditions. As a number of roads may be considered the road with the highest current AADT will be adopted.
- (c) It is reasonable to allow an additional discount factor where the extracted material is to be used on the construction, reconstruction or upgrading of roads within the Shire, or where a material benefit will be gained by residents within the Shire.

From these nexus factors, the contribution formulae in clause 13 can be derived.

13. Contribution - Rural Roads

The formulae for assessing the contribution rate, per cubic metre of extractive material, is as follows:

$$\text{Contribution} = \frac{[(CU + AU) \times LU + (CS_1 + AS_1) \times LS_1 + (CS_2 + AS_2) \times LS_2]}{C} \times \frac{Q_1}{(Q_1 + Q_2)} \times DF$$

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- C₁ = cost per kilometre of upgrading/maintaining an unsealed road.
- A₁ = acquisition costs referred to in Clause 7(b) for the unsealed roads.
- L₁ = length of unsealed roads in kilometres over which material is hauled.
- C₂ = cost per kilometre of upgrading a minor sealed road.
- A₂ = acquisition costs referred to in Clause 7(b) for minor sealed roads.
- L₂ = length of minor sealed roads in kilometres over which material is hauled.
- C₃ = cost per kilometre of upgrading a major sealed road.
- A₃ = acquisition costs referred to in Clause 7(b) for major sealed roads.
- L₃ = length of major sealed roads in kilometres over which material is hauled.
- Q = assessed annual truck movements caused by extractive industry.
- Q_c = current truck movements of highest trafficked road identified in assessment.
- DF = discount factor referred to in Clause 9.
- C = annual available extractive material, in cubic metres, in the proposed extractive site.

14. Payment of Contributions

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

- (a) monetary contribution;
- (b) dedication of land for road widening purposes;
- (c) provision of a material public benefit such as "works in kind".

15. Timing of Contributions

Contributions are required to be paid either:

- (a) in full on commencement of the works;
- (b) by the 7th day of each month for the month immediately proceeding the previous month of operation. Payment is to be based on accurate tally information provided by haulage operators and is to be confirmed annually by Certified Accountants records. Such payments are referred to as "periodic payments" and will be indexed by the R.T.A. Road Cost Index so that the value of the payment does not diminish over time. A bank guarantee will be required for the estimated value of contributions for one year in advance of the date of commencement and will be

renewed on the anniversary of commencement each year. The decision as to whether to accept periodic payments, or not, rests solely with the Council.

16. Dedication of Land and Material Public Benefit

A decision as to whether to accept the dedication of land or the provision of a material public benefit in lieu of a monetary contribution, will be at the discretion of the Council. Council will take into consideration the following factors:

- (a) the extent to which the land or material public benefit satisfies a community need;
- (b) the extent to which the land or material public benefit satisfies the purpose for which the contribution is sought;
- (c) a consideration of location and other factors which may affect usability;
- (d) an assessment of recurrent maintenance costs to Council.

17. Section 94 Accounting for Contributions

Council has established accounting procedures for the management of Section 94 contributions, which must be spent for the purpose for which the levy was made. Interest will be calculated on funds held and credited as appropriate, in accordance with Local Government accounting procedures.

18. Priority Spending

Council may permit the short term transfer of funds between various categories in order to enable works to be undertaken according to priorities. This will only be done on the following basis:

- (a) full details of the transfer and subsequent reimbursement of funds are recorded;
- (b) the transferred funds are returned to the relevant categories, as appropriate;
- (c) there is a reasonable expectation that future contributions will be obtained, to enable the reimbursement of the category, from which the funds have been transferred;

- (d) the purpose for which the contributions are transferred is a purpose identified within a Works Program in a Section 94 contribution plan.

Council is not permitted to transfer funds between Section 94 accounts and any other accounts of the Council.

19. Contributions Register

Council will maintain a register of all contributions received in accordance with Clause 41M of the Regulations. The register will record:

- (a) the origin of each contribution by reference to the development consent to which it relates;
- b) the type of contribution received, being cash, land or works in kind;
- (c) the amount of contribution, and the purpose for which the levy was made;
- (d) the name of the Section 94 plan under which the levy was made;
- (e) the date of receipt of the contribution.

The register will be available for public inspection, free of charge, during normal office hours.

20. Annual Statement

Council will produce an annual statement of contributions received which will provide a summary of details relating to contributions, in accordance with Clause 41N of the Regulations. This information will be available for public inspection, free of charge, during normal office hours.

21. Review of Plan

Any material change in this plan, with the exception of the annual adjustment referred to in Clause 10, and the works specified in Clause 11, will require that the plan be amended in accordance with Section 94AB of the Environmental Planning and Assessment Act, 1979. This will require full public exhibition of the amended plan and consideration of submissions received.

SCHEDULE 1 - CONTRIBUTION RATES

Contribution rates are as determined by the formula in Clause 13 where:

CU is the cost per kilometre of upgrading an average unsealed road, capable of carrying average rural traffic, to a level capable of carrying extractive material haulage vehicles. This figure is to be assessed on an annual basis in accordance with Clause 7(b) and will be based on information provided by the Director of Technical Services at the time of preparation of Council's annual estimates. As at 30th September, 1994 the Director of Technical Services estimates this figure to be \$2,400.

CS₁ and CS₂ is the cost per kilometre of upgrading average minor (4 metres wide or less) and major (greater than 4 metres wide) sealed road, capable of carrying average rural traffic, to a level capable of carrying extractive material haulage vehicles. This figure is to be assessed on an annual basis in accordance with Clause 7(b) and will be based on information provided by the Director of Technical Services at the time of preparation of Council's annual estimates. As at 30th September, 1994 the Director of Technical Services estimates this figure to be \$2,380 for minor sealed roads and \$2,910 for major sealed roads.

AU, AS₁ and AS₂ is the cost of acquisition of land for unsealed and minor and major sealed roads, at current values, and assessed on an annual basis in accordance with Clause 7(b).

LU, LS₁ and LS₂ is the length in kilometres of public unsealed and minor and major sealed roads over which the extractive material is hauled. The length of road used in the assessment of contribution rates will be the shortest possible route from the extractive industry site to the State Highway or where the haulage vehicles cross out of the Shire area.

Q₁ is the estimated annual truck movements from traffic generated by the haulage of extractive material.

Q₂ is the maximum existing truck movements from traffic on the roads assessed for the development. Unless more detailed information is known a heavy traffic component of 5-10% AADT will be used, as recommended by the RTA.

DF is the discount factor referred to in Clause 9, having a minimum value of .05 and a maximum value of 1, and is to be determined by Council, having regard to all the circumstances of the proposal.

C is the annual available extractive material, in cubic metres, in the proposed extractive site.

SCHEDULE 2 - WORKS PROGRAM

<u>Proposed Amenity</u>	<u>Timing</u>	<u>Cost</u>
Road upgrading of road serving proposed site.	Within 12 months of contribution or as otherwise agreed between Council and the Developer.	\$2,400 per kilometre for unsealed roads and \$2,380 per kilometre for minor sealed roads and \$2,910 per kilometre for major sealed roads, to be staged according to rate of extraction of material and according to payments made.

