

Bega Valley

Section 94 and 94A

Contributions Plan 2014



Bega Valley Section 94 and 94A Contributions Plan 2014

Prepared for



By



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Record of amendments

The following list details the amendments to this plan that have been effected after the original adoption of the plan.

Name of amendment	Date approved by Council	Date plan came into force
Original plan	4 February 2015	17 February 2015

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1.0 Introduction and Summary of Contribution Rates

1.1 Overview of this Plan

Bega Valley Shire is likely to receive development in the future that impacts on the quality and standard of Local Infrastructure provided and managed by Bega Valley Shire Council. (**Council**). Local Infrastructure includes open space and recreation facilities, community facilities, roads and streetscape improvements such as furniture and lighting.

Council wishes to both promote the economic development of land in the Shire and to also provide adequate public infrastructure for the users of new developments. Accordingly, it is considered appropriate that new developments make a reasonable contribution towards the provision of new and / or augmented Local Infrastructure to meet the demands of those developments.

Subdivision 3 of Division 6 of Part 4 of the Environmental Planning and Assessment Act 1979 (**EP&A Act**) authorises a Consent Authority to grant consent to a proposed development subject to a condition requiring a section 94 contribution or a section 94A levy:

- for the provision, extension or augmentation of Local Infrastructure in the area; or
- toward the recoupment of the cost of existing Local Infrastructure in the area.

Where the Consent Authority is a council or an Accredited Certifier, a Local Infrastructure contribution may be imposed on a development only if it is of a kind allowed by and determined in accordance with a contributions plan, such as this Plan.

This Plan identifies the projected demands for Local Infrastructure arising from expected development in the Bega Valley LGA. The Plan authorises Council or an accredited certifier to impose conditions on Development Consents or Complying Development Certificates requiring:

- section 94 contributions from Residential Accommodation developments that would result in a net increase in dwellings (including residential subdivision);
- section 94A levies for other types of development described in Table 1.2 of this Plan.

This Plan has been prepared in accordance with the EP&A Act and Environmental Planning and Assessment Regulation 2000 (**EP&A Regulation**); and having regard to the latest Practice Notes issued by the NSW Department of Planning and Infrastructure.

This plan does not preclude the consent authority from entering into a planning agreement with the applicant for works in kind, material public benefit, dedication of land and/or deferred payment arrangement in lieu of the payment of section 94 or 94A contributions.

Commercial development which is assessed to be deficient in on-site car parking, or where a development control plan requires the provision of car parking by way of a monetary contribution will be subject to a planning agreement in accordance with Council's Planning Agreements Policy.

This Plan sets out:

- The anticipated demands for Local Infrastructure arising from expected development in Bega Valley LGA and the relationship or nexus between the expected development in the area and the Local Infrastructure that is required to meet the demands of that development;
- the formulas used to determine the reasonable section 94 contributions;

- the section 94 contribution rates and section 94A levies for the anticipated types of development in the area;
- maps showing the location of the Local Infrastructure items proposed to be provided by Council supported by a works schedule setting out an estimate of their cost and priorities; and
- the administrative and accounting arrangements applying to contributions that are required by this Plan.

1.2 Summary of contribution and levy rates

Table 1.1: Section 94 contribution rates

Development type*	Contribution rate
Residential Accommodation development that results in a net increase in dwellings	
New residential lots, dual occupancies, attached dwellings, semi-detached dwellings, rural workers dwellings	\$9,194 per dwelling or lot
Residential flat buildings, multi dwelling housing, development under Affordable Housing SEPP	\$6,394 per dwelling
Bed-sitters or one bedrooms dwellings in any type of Residential Accommodation development	\$5,675 per dwelling
Additional contributions applying to Residential Accommodation in the Woodlands Lane catchment (refer to map in Appendix A1) #	
New residential lots, detached dwelling houses and vacant allotments that have a dwelling entitlement	\$20,000 per dwelling or lot
Development on certain land in Bermagui (refer to maps in Appendix A2)	Dedication of land shown hatched free of cost

Notes:

* Also refer to development exclusions identified in clause 2.8

refer clause 1.3.1 of this PlanTable

1.2: Section 94A levy rates

Development type*	Contribution rate
Development that is not subject to a section 94 contribution under this Plan (including any residential dwelling houses on lots where no section 94 contributions were previously received, mixed use development and shop top housing) shall pay a section 94A levy based on the estimated cost of carrying out the development in accordance with the following schedule:	
• up to and including \$100,000	Nil
• more than \$100,000 and up to and including \$200,000.....	0.5% of that cost
• more than \$200,000	1% of that cost

Notes:

* Also refer to development exclusions identified in clause 2.8

1.3 Calculating a contribution under this Plan

Contribution rates for different development types and locations are shown in the tables in clause 1.2 of this Plan.

A development can only be the subject of either a section 94 contribution or a section 94A levy, not both.

1.3.1 Development subject to a section 94 contribution

Under this Plan, section 94 contributions shall only apply to the following developments:

- Residential Accommodation development that would result in a net increase in dwellings on the development site. This includes development throughout the LGA and development on land in the Woodlands Lane catchment (refer Appendix A1)
- Development on land identified in Appendix A2 which generates a need for lane way land.

The total section 94 contribution for a Residential Accommodation development is calculated using the rates shown in Table 1.1, **less any allowance for assumed infrastructure demand arising from existing developments, if applicable** (refer Table 1.3). The occupancy rates included in Table 1.3 over page reflect the estimate of future infrastructure demand for proposed dwellings as well as the estimate of existing infrastructure demand for the purpose of calculating demand allowances (or credits) for existing development.

Where the development is subject to more than one of the section 94 contributions listed in Table 1.1, the total contribution shall be the sum of all the contributions that apply to that development.

Contributions applied to development in the Woodlands Lane catchment will be allocated to road and bridge works on Woodlands Lane as per Appendix A3.

The monetary section 94 contribution rates shown in Table 1.1 reflect the contribution rates at the date that the Plan commenced. These rates are regularly adjusted for inflation in accordance with the provisions of clause 2.15 of this Plan. Applicants should inquire at the Council for information on the latest contribution rates.

Table 1.3: Assumed occupancy rates for calculating contributions

Residential Accommodation development type	Assumed average household occupancy rate
Detached dwelling houses and vacant allotments that have a dwelling entitlement	2.43 persons per dwelling
Units, apartments or townhouses	1.69 persons per dwelling
Secondary dwellings; bed-sitters or one bedrooms dwellings in any type of Residential Accommodation development	1.5 persons per dwelling/ room

Cap on residential section 94 contributions

On 21 August 2012 the Minister for Planning issued a Direction to Council that caps section 94 contributions.

The Direction requires, among other things:

A council (or planning panel) must not grant development consent ... subject to a condition under section 94 (1) or (3) of the Environmental Planning and Assessment Act 1979 requiring the payment of a monetary contribution that:

(a) in the case of a development consent that authorises one or more dwellings, exceeds \$20,000 for each dwelling authorised by the consent, or

(b) in the case of a development consent that authorises subdivision into residential lots, exceeds \$20,000 for each residential lot authorised to be created by the development consent.

This Plan is consistent with the Minister's Direction in that it authorises section 94 contributions on residential development not to exceed the cap. Where the sum of the contributions for a particular Residential Accommodation development, the total amount included in the consent shall not exceed the cap.

Catchment maps for section 94 monetary contributions

Refer to the catchment maps in the Appendices to this Plan that show the areas affected by the following types of contributions

Appendix A1: Woodlands Lane development contributions catchment

Appendix A2: Bermagui laneway development contributions catchments

1.3.2 Development subject to a section 94A levy

Under this Plan, section 94A levies shall apply to all other development that is not subject to a section 94 contribution under this Plan or any other contributions plan adopted by the Council; and which has a proposed cost of development in excess of \$100,000.

Such development includes enlargement or replacement of existing dwellings and the development is not exempted by clause 2.8 of this Plan.

The total section 94A levy for any individual development is the monetary contribution determined by applying the applicable contribution rate in Table 1.2 to the proposed cost of the development.

There is no allowance for assumed existing infrastructure demand in the calculation of any section 94A levy.

Further details on the calculation of section 94A levies are included in clause 2.13 of this Plan.

2.0 Administration and Operation of this Plan

2.1 Definitions used in this Plan

In this Plan, the following words and phrases have the following meanings:

Accredited Certifier has the same meaning as in the EP&A Act.

Affordable Housing has the same meaning as in the EP&A Act.

Complying Development has the same meaning as in the EP&A Act.

Complying Development Certificate has the same meaning as in the EP&A Act.

Consent Authority has the same meaning as in the EP&A Act but also includes an Accredited Certifier responsible for issuing a Complying Development Certificate.

Council means Bega Valley Shire Council.

CSP means Community Strategic Plan.

Development has the same meaning as in the EP&A Act:

development means:

- (a) the use of land, and
- (b) the subdivision of land, and
- (c) the erection of a building, and
- (d) the carrying out of a work, and
- (e) the demolition of a building or work, and
- (f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument,

but does not include any development of a class or description prescribed by the regulations for the purposes of this definition.

Development Application has the same meaning as in the EP&A Act.

Development Consent has the same meaning as in the EP&A Act.

Dwelling has the same meaning as in Bega Valley Local Environmental Plan 2013.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2000.

LGA means local government area.

LG Act means Local Government Act 1993.

Local Infrastructure means public amenities and public services that are traditionally the responsibility of local government, excluding water supply or sewerage services.

Local Infrastructure Contribution includes a contribution imposed on a Development Consent by a Consent Authority under section 94 or section 94A of the EP&A Act.

Minister means the Minister for Planning.

Residential Accommodation has the same meaning as in Bega Valley Local Environmental Plan 2013.

2.2 Local Infrastructure addressed by this Plan

This Plan authorises the Consent Authority to levy contributions that will be applied by the Council towards meeting the cost of Local Infrastructure to be provided by or at the cost of the Council within its LGA.

The types of Local Infrastructure which are covered by this Plan are as follows:

- Open space and recreation facilities, including new and upgraded parks, sportsgrounds, and other recreation areas
- Community facilities, including halls and expansions to existing library floor space
- Roads and traffic facilities, including upgrades to existing roads and intersections, and new or augmented roads, cycleways and pathways
- Car parking facilities in town centres
- Streetscapes, including improved links and other works in town centres
- Land acquisitions

The costs of administering this Plan will also be met by contributions imposed under this Plan.

More details on the demand for Local Infrastructure, the relationship of the Local Infrastructure with the expected development, and specific facilities to be provided are included in Parts 3 and 4 of this Plan.

2.3 Name of this Plan

This Plan is called Bega Valley Section 94 and Section 94A Contributions Plan 2014.

2.4 Purposes of this Plan

The primary purpose of the Plan is to authorise:

- the Council, when granting consent to an application to carry out development to which this Plan applies; or
- an Accredited Certifier, when issuing a Complying Development Certificate for development to which this Plan applies,

to require a Local Infrastructure Contribution to be made towards:

- the provision, extension or augmentation of Local Infrastructure; and
- the recoupment of the previous costs incurred in providing existing Local Infrastructure,

within the area to which this Plan applies.

Other purposes of the Plan are:

- to provide the framework for the efficient and equitable determination, collection and management of Local Infrastructure Contributions;
- to determine the demand for Local Infrastructure generated by the incoming population to the area and ensure that development makes a reasonable contribution toward the provision of Local Infrastructure that is required for that population;
- to ensure that the existing community is not unreasonably burdened by the provision of Local Infrastructure required as a result of development in the area; and
- to ensure Council's management of Local Infrastructure Contributions complies with relevant legislation and practice notes, and achieves best practice in plan format and management.

2.5 Commencement of this Plan

This Plan commences on the date on which public notice was given under clause 31(2) of the EP&A Regulation or the date of specified in that notice if it is a different date.

2.6 Land to which this Plan applies

This Plan applies to all land within the Bega Valley LGA.

2.7 Development to which this Plan applies

Except as provided for by clause 2.8, this Plan applies to the following development:

1. Insofar as the Plan authorises the imposition of a requirement for a section 94 contribution:
 - (a) Residential Accommodation development throughout the LGA that would result in a net increase in dwellings (including additional contributions relating to land in the Woodlands Lane catchment identified in Appendix A1).
 - (b) Development on land identified in Appendix A2 which generates a need for lane way land.
2. Insofar as the Plan authorises the imposition of a requirement for a section 94A levy:
 - (a) Development other than development listed in 1(a) - (c) above that has a proposed cost of \$100,000 or more.

2.8 Development exempted from contributions under this Plan

This Plan does not apply to the following developments:

- (a) Residential Accommodation development that is a boarding house, a group home, a hostel, a secondary dwelling or that is for seniors housing.
- (b) Development provided by or on behalf of State Government or the Council:
 - for the purposes of Local Infrastructure included in this Plan or another contributions plan prepared under the EP&A Act;
 - for infrastructure provided by water, sewer or energy providers;

- that provide not-for-profit community facilities, such as sportsgrounds, parks, community centres, emergency services; and
 - that in the opinion of Council does not increase the demand for the categories of community infrastructure addressed by this Plan.
- (c) The adaptive re-use of a heritage item that is being developed in accordance with a heritage conservation management plan.
- (d) Development exempted from Local Infrastructure Contributions by way of a Direction made by the Minister for Planning under section 94E of the EP&A Act.

2.9 Relationship to other Contributions Plans

This Plan repeals the following contributions plans:

- Section 94 Contributions Plan No. 1 – Existing Rural Roads
- Section 94 Contributions Plan No. 2 – Carparking
- Section 94 Contributions Plan No. 3 – Recreation Facilities and Public Reserves
- Section 94 Contributions Plan No. 4 – Old Wallagoot Road, Kalaru
- Section 94 Contributions Plan No. 5 – Tuross Street and Lane, Bermagui
- Section 94 Contributions Plan No. 6 – Bald Hills Road, Bald Hills
- Section 94 Contributions Plan No. 7 – Lochiel Road, Nethercote
- Section 94 Contributions Plan No. 8 – Narrawa Place, Jellat
- Section 94 Contributions Plan No. 9 – Strudwicks Road, Bermagui
- Section 94 Contributions Plan No. 10 – Roads, Water and Sewer Prospect Estate, South Pambula
- Section 94 Contributions Plan No. 11 – George Street and Lane, Bermagui

This Plan however does not affect development consents containing requirements for developments to make contributions under the above Plans.

Clause 2.22 of this Plan contains a transitional provision consequent upon the making of this Plan.

2.10 Monetary Local Infrastructure Contributions may be required as a condition of consent

This Plan authorises Council or an Accredited Certifier, when determining an application for development or an application for a Complying Development Certificate relating to development to which this Plan applies, and subject to other provisions of this Plan, to impose a condition requiring a **section 94** monetary contribution on that development to enable the provision of Local Infrastructure identified in this Plan.

This Plan also authorises the Council or an Accredited Certifier, when determining an application for development or an application for a Complying Development Certificate relating to development to which this Plan applies, and subject to other provisions of this Plan, to impose a condition requiring the payment of a monetary contribution that is a **section 94A** levy.

This Plan also authorises the Council or an Accredited Certifier to require monetary contributions from development towards recouping the cost of the provision of existing Local Infrastructure that has been provided by the Council for or to facilitate the carrying out of development and which the development will benefit from.

A section 94A levy cannot be required in relation to development if a section 94 contribution is required in relation to that development.

Where this Plan indicates that both a section 94 contribution and a section 94A levy could apply to different aspects of the same development, then the Council shall decide which contribution or levy authorised by this Plan will be imposed on the development.

The types of development affected by **either** section 94 contributions or section 94A levies, and the contribution rates applying to different development types, are identified in clause 1.2 and Tables 1.1 and 1.2 of this Plan.

Accredited Certifiers should also refer to clause 2.14 of this Plan as to their obligations in assessing and determining applications subject to Local Infrastructure Contributions authorised by this Plan.

Unless otherwise specified, references to monetary contributions in this Plan include both section 94 and section 94A contribution types.

2.11 Dedication of land free of cost may be required as a condition of consent

This clause applies to land in Bermagui edged heavy black identified in Appendix A2 to this Plan.

This Plan authorises the Consent Authority, other than an Accredited Certifier, when granting consent to an application to carry out development to which this clause applies, to impose a condition under section 94 of the EP&A Act requiring the dedication of land free of cost to Council towards the provision, extension or augmentation of the Local Infrastructure specified in Appendix A3 to this Plan to meet the demands of the development.

Where development on land to which this clause applies involves a redevelopment, enlargement or intensification of the use of the land, the Consent Authority will require as a condition of consent the developer of that land to dedicate the land shown hatched in Appendix A2 free of cost to the Council.

The dedicated land is to enable construction of a future laneway by Council as and when funds permit.

2.12 Variation to contributions authorised by this Plan

Council retains the right to reduce the development contribution otherwise calculated in accordance with the provisions of this Plan.

A developer's request for variation to a contribution calculated in accordance with this Plan must be supported by written justification included with the development application. Such request will be considered as part of the assessment of the application.

An Accredited Certifier other than the Council cannot vary a development contribution calculated in accordance with this Plan.

2.13 Additional provisions for section 94A levies

This clause applies only in respect to the calculation of section 94A levies for individual developments.

2.13.1 Determining the proposed cost of carrying out development

Section 94A levies are calculated as a percentage of the cost of development.

Clause 25J of the EP&A Regulation sets out how the proposed cost of carrying out development is determined.

2.13.2 Cost Summary Report must accompany development application

A Development Application or application for a Complying Development Certificate shall be accompanied by a Cost Summary Report, prepared at the applicant's cost, setting out an estimate of the proposed cost of carrying out the development.

The Cost Summary Report shall be in accordance with Appendix B.

Council will validate all Cost Summary Reports before they are accepted using a standard costing guide or other generally accepted costing method. Should the costing as assessed by Council be considered inaccurate, Council may, at its sole discretion and at the applicant's cost, engage a person referred to in clause 2.13.3 to review a Cost Summary Report submitted by an applicant.

2.13.3 Who may provide a Cost Summary Report?

The following persons are approved by the Council to provide an estimate of the proposed cost of carrying out development:

- where the applicant's initial estimate of the proposed cost of carrying out the development is less than \$1,000,000 – any building industry professional; or
- where the applicant's initial estimate of the proposed cost of carrying out the development is \$1,000,000 or more – a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

2.14 Obligations of Accredited Certifiers

2.14.1 Complying development certificates

This Plan requires that, in relation to an application made to an Accredited Certifier for a complying development certificate:

- the accredited certifier must, if a Complying Development Certificate is issued, impose a condition requiring a monetary contribution, if such a contribution is authorised by this Plan;
- the amount of the monetary contribution that the Accredited Certifier must so impose is the amount determined in accordance with this clause; and
- the terms of the condition be in accordance with this clause.

Procedure for Accredited Certifier to determine the amount of the section 94 monetary contribution

1. If, and only if specified in writing in the application for a Complying Development Certificate, the applicant has requested a credit under section 94(6) of the EP&A Act or an exemption or part or the whole of the development under clause 2.8 of this Plan, the Accredited Certifier must:
 - a. make a request in writing to the Council for the Council's advice on whether the request is granted, or the extent to which it is granted; and
 - b. in calculating the monetary contribution, comply with the Council's written advice or if no such advice has been received prior to the granting of the Complying Development Certificate, refuse the applicant's request.
2. Determine the unadjusted contributions in accordance with the rates included in Table 1.1 of this Plan taking into account any exempt development specified in clause 2.8 and any advice issued by the Council under paragraph 1b. above.
3. Adjust the calculated contribution in accordance with clause 2.15 to reflect the indexed cost of the provision of infrastructure.
4. Subtract any credit advised by the Council under paragraph 1b. above, for any assumed Local Infrastructure demand relating to existing Residential Accommodation development.
5. To the extent necessary, reduce the contribution so that it does not, in combination with any other monetary contribution proposed to be required as a condition of the Complying Development Certificate, result in a breach of the Minister's direction under section 94E of the EP&A Act dated 21 August 2012 (i.e. the latest contribution caps direction).

Procedure for accredited certifier to determine the amount of the section 94A levy

1. Ensure that the development is not subject to a section 94 contribution under this Plan or any other section 94 contributions plan adopted by the Council and that remains in force.
2. Determine the section 94A levy in accordance with the Cost Summary Report prepared by or on behalf of the applicant under clause 2.13.2 of this Plan using the rates included in

Table 1.2 of this Plan and taking into account any exempt development specified in clause 2.8.

Terms of a section 94 condition or section 94A condition

The terms of the condition required by this clause are as follows:

Contribution

The developer must make a monetary contribution to Bega Valley Shire Council in the amount of \$ [insert amount] for the purposes of the Bega Valley Section 94 and 94A Contributions Plan 2014.

Indexation

Where the monetary contribution is not paid before the first anniversary of the date of this certificate, the contribution amount must be indexed between the date of the certificate and the date of payment in accordance with annual movements in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician.

Time for payment

The contribution must be paid prior to any work authorised by this Complying Development Certificate commences, as required by clause 136L of the Environmental Planning and Assessment Regulation 2000.

Deferred payments of contributions may be accepted in certain circumstances and will need to be secured by bank guarantee. Refer to the contributions plan for Council's policy on deferred payments.

Works in kind agreement

This condition does not need to be complied with to the extent specified in any works in kind agreement entered into between the developer and the Council.

2.14.2 Construction Certificates

It is the responsibility of an Accredited Certifier issuing a Construction Certificate for building work or subdivision work to ensure that each condition requiring the payment of a monetary contribution before work is carried out has been complied with in accordance with the Complying Development Certificate.

The Accredited Certifier must ensure that the applicant provides a receipt (or receipts) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid and expose the certifier to legal action.

The only exceptions to the requirement are where a work in kind, material public benefit, dedication of land and/or deferred payment arrangement has been agreed by the consent authority. In such cases the Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

2.15 Indexation of contribution rates included in this Plan

In accordance with clause 32(3)(b) of the EP&A Regulation, Council may, without the necessity of preparing a new or amending contributions plan, make changes to the **section 94** contribution rates set out in this Plan to reflect annual variations to the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician.

2.16 Indexation of monetary contributions required by a condition imposed under this Plan

This clause applies to a monetary contribution required by a condition of Development Consent that has been authorised to be imposed under this Plan.

Where the contribution is paid before the first anniversary of the Development Consent, the amount paid will be the amount that appears in the relevant condition in the consent.

Where the contribution is paid on or after the first anniversary of the Development Consent the amount paid will be the amount shown in the consent indexed between the date of the grant of the consent and the date on which the contribution is paid in accordance with annual movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician.

2.17 Timing of payment of monetary contributions required under this Plan

A monetary contribution required by a condition imposed on a Development Consent in accordance with this Plan (other than a Complying Development Certificate) is to be paid at the time specified in the condition.

Generally, the condition will provide for payment as follows:

- For development involving subdivision – the contribution must be paid prior to the release of the subdivision certificate (linen plan), strata plan or a strata plan of subdivision within the meaning of the Strata Schemes (Freehold Development) Act 1973 or the Strata Schemes (Leasehold Development) Act 1986;
- For development not involving subdivision, but where a Construction Certificate is required, the contribution must be paid prior to the release of the Construction Certificate; and
- For other development, the contribution must be paid prior to the commencement of the use or occupation of premises.

For contributions in respect to works authorised under a Complying Development Certificate, the contributions are to be paid prior to any work authorised by this certificate commences, as required by clause 136L of the EP&A Regulation.

2.18 Policy on deferred or periodic payments

The applicant or any other person entitled to act upon a Development Consent containing a monetary contribution condition imposed in accordance with this Plan may apply in writing to the Consent Authority, other than an Accredited Certifier, under section 96 of the EP&A Act to modify the condition to provide for the deferred or periodic payment of the contribution.

If it agrees to a deferred or periodic payment request, Council will require the applicant to provide a bank guarantee by a bank or a financial institution for the full amount of the contribution or the outstanding balance.

2.19 Pooling of monetary contributions

This Plan authorises monetary contributions paid for different purposes in accordance with the conditions of various Development Consents authorised by this Plan and any other contributions plan approved by the Council from time to time (whether or not such a plan is one that is repealed by this Plan) to be pooled and applied progressively for those purposes.

The priorities for the expenditure of pooled monetary contributions under this Plan are the priorities for works as set out in the works schedule to this Plan (Appendix A3).

2.20 Accountability and access to information

Council is responsible for the maintenance of an accurate and up-to-date register of all Local Infrastructure Contributions. This register details:

- each Development Consent which contains a Local Infrastructure Contribution condition;
- the nature and extent of the contribution required by the condition; and
- the date on which a Local Infrastructure Contribution required by any such condition was received, and its nature and extent.

The register is available for inspection by any person at Council's offices free of charge at any time during normal office hours.

The Council must also maintain accounting records that indicate:

- the various kinds of Local Infrastructure for which expenditure is authorised by the Plan;
- the monetary contributions received under the Plan, by reference to the various kinds of Local Infrastructure for which they have been received;
- in respect of monetary contributions paid for different purposes, the pooling or progressive application of the contributions for those purposes, in accordance with any requirements of the Plan or any Ministerial direction under the EP&A Act; and
- the amounts spent in accordance with this Plan, by reference to the various kinds of Local Infrastructure for which they have been spent.

2.21 Review of Plan without the need for public exhibition

Pursuant to clause 32(3) of the EP&A Regulation, Council may make certain minor adjustments or amendments to the Plan without prior public exhibition and adoption by Council. Minor adjustments could include minor typographical corrections, amendments to rates resulting from changes in the published indexes adopted by this Plan (see clause 2.15).

2.22 Savings and transitional arrangements

2.22.1 Contributions imposed under this Plan

This Plan applies to both:

- a Development Application or application for a Complying Development Certificate submitted after the date on which this Plan took effect; and
- a Development Application or application for a Complying Development Certificate submitted, but not yet determined, on or before the date on which this Plan took effect.

2.22.2 Contributions imposed under repealed contributions plans

Any Local Infrastructure Contributions that have been imposed under a repealed contributions plan, and which had not been paid at the date this Plan came into effect, shall be subject to CPI movements at the time of payment based on the date of issue of the Development Consent notwithstanding the wording of the condition, and:

- will be allocated towards a similar purpose to that for which it was required, in the locality in which it was collected if such similar works are available and identified in the works schedules in Appendix A3 to this Plan; or
- where no such equivalent works are included in the works schedules, Council will allocate the funds to works of a similar nature in the general locality that are included in the works schedules.

3.0 Local Infrastructure Demands

This Part discusses the existing and future context for development in Bega Valley LGA.

Contributions of land, money or works by developers are required by councils to meet the extra demand on Local Infrastructure resulting from new development.

Council has designed its development contributions system (including this Plan) in a way that responds to the locations, types, and scale of development expected in the Bega Valley LGA in the future.

This has been done to ensure that the contributions to be levied under this Plan fairly and reasonably relate to the different types of development that are envisaged.

3.1 Statutory framework for infrastructure provision

Privately-owned land in New South Wales can only be developed in accordance with the provisions of the EP&A Act.

Each council's activities (including the development and management of its Local Infrastructure) are subject to the strategic planning provisions (sections 402-406) of the Local Government Act 1993 (**LG Act**). These provisions allow for the development of the LGA through a partnership between the local council and the local community. The outcome of that partnership is the Community Strategic Plan (**CSP**).

Section 402 states as follows:

402 Community strategic plan

- (1) *Each local government area must have a community strategic plan that has been developed and endorsed by the council. A community strategic plan is a plan that identifies the main priorities and aspirations for the future of the local government area covering a period of at least 10 years from when the plan is endorsed.*
- (2) *A community strategic plan is to establish strategic objectives together with strategies for achieving those objectives.*
- (3) ...

These priorities, aspirations and objectives include the capital works and public infrastructure that Council will provide to serve its community. The contributions received pursuant to this Plan will fund the same capital works program determined through the CSP process.

The Community Strategic Plan – Bega Valley 2030 is the CSP for the Bega Valley LGA.

Bega Valley 2030 states (on page 21):

The Community Strategic Plan - Bega Valley 2030 sets the direction for the Bega Valley for the next 20 years. It reflects the ambitions of the people who live, work and visit the Bega Valley...

Bega Valley 2030 outlines a sustainable direction for the future for the Council and community to work towards over the next 20 years.

Accompanying the CSP are:

- a Community Engagement Strategy to engage with the community in the development of the schedule of Local Infrastructure for the LGA; and
- a Resourcing Strategy, which includes a long-term financial plan, workforce management plan and asset management planning that implements Council's program.

The process of preparing this Plan was designed to integrate further with the work already undertaken by Council in preparing the CSP and subordinate documents. That is:

- Population forecasts reflect the CSP and updated by more recent assessments made by Council's consultant demographers.
- The Plan's works schedule items (Appendix A3) have been principally drawn from the asset management plans, with adjustments and refinements to reflect the most recent information; and
- The funds anticipated to be received through this Plan will inform the next review of Council's long term-financial plan.

The LG Act strategic planning provisions require that all these processes be fully integrated and each should inform and refine the development of other plans in the process.

Development contributions plans, such as this Plan, provide the link or nexus between expected development and an area's Local Infrastructure requirements. They therefore establish the necessary link between Council's strategic land use planning processes pursuant to the EP&A Act and the Community Strategic Planning processes pursuant to the LG Act.

3.2 Development context

3.2.1 Locality

Bega Valley LGA is located on the south-eastern coastline of New South Wales and extends from Wallaga Lake in the north to the Victorian border in the south. It has the longest coastline and is the largest coastal LGA in New South Wales with an area of 6,279 square kilometres.

The LGA is sparsely populated, largely because 75 percent of the area is within various National Parks and State Forests. Almost all of the land south of Eden, as well as much of the land in the north-west of the LGA, consists of parks and forests. As many as 20 towns and villages are scattered throughout the remainder of the LGA.

The major infrastructure that services the LGA includes the Princes Highway, which passes through the length of the Shire from north to south, and Merimbula Airport, located 2 kilometres outside Merimbula. There are no operable railways in the LGA.

3.2.2 Population and settlement patterns

The estimated resident population of the Bega Valley LGA at the time of the most recent Census (2011) was 33,128.¹ Demands for Local Infrastructure in this Plan are based on the estimated resident population of Bega Valley LGA.

The LGA has historically been isolated from the remainder of the State as a result of the significant bushland areas and lack of rail access. The port towns of Bermagui, Tathra, Merimbula and Eden connected the district to the outside world, while they were also centres for

¹ profile.id, viewed 4 November 2013, <http://profile.id.com.au/bega-valley/highlights>

fishing and whaling industries. As whaling ended and sea transport and fishing declined, these port towns shifted their focus to tourism².

Bega Valley is also known for its dairy industry and the majority of people are employed in agriculture, retail and tourism. Bega Cheese is the largest employer in the Shire with 693 Bega-based employees³.

As a result of the historical development of the area, the major centres in the LGA are the four ports serviced by the inland, centrally-located, industrial and service hub at Bega. The scale of towns ranges from the regional centre in Bega, with a population in 2011 of 5,223 to a number of local villages with less than 100 people.

The LGA's main centres and growth areas as well as the bushland areas are shown in at Figure 3.1.



Source: Bega Valley Shire Council

Figure 3.1: Bega Valley LGA - main centres and growth areas

² Bega Valley Council website: History of the Shire, viewed 10 September 2012, http://www.begavalley.nsw.gov.au/cp_themes/default/page.asp?p=DOC-RWU-85-78-51

³ Bega Valley Council website: Economy > workforce, viewed 10 September 2012, http://www.begavalley.nsw.gov.au/cp_themes/default/page.asp?p=DOC-CCY-88-73-54

3.2.3 Existing residential accommodation and occupancy rate

There were 16,752 private dwellings in the LGA in 2011.⁴ When compared to the estimated resident population at that time of 33,000, this is a gross occupancy rate of 2 persons per dwelling.

The relatively low occupancy rate is a result of the high number of unoccupied dwellings on Census night. At the 2011 Census some 3,312 dwellings – or 20 percent of all private dwellings – were unoccupied.⁵ This rate is more than double the State average of 9.7 percent.⁶

The high rate of unoccupied dwellings can be attributed to a many dwellings being used only seasonally as ‘holiday homes’, especially in the port / tourist towns of Bermagui (39.1 percent unoccupied), Merimbula (29.3%), Tathra (23.3%) and Eden (15.4%).

This low occupancy of dwellings in these areas has significant consequences for infrastructure planning for the following reasons:

- Existing housing could potentially absorb a significant population of new residents, impacting on the demand for public infrastructure but without payment of development contributions towards its delivery.
- The substantial variation between the actual population and the capacity of the housing makes it particularly difficult to estimate demand for certain infrastructure.
- The fact that the high vacancy results from the annual influx of tourists means that the demand for infrastructure, especially for open space and recreation, varies between the winter and summer months.

It is therefore considered reasonable to determine contribution rates on the basis of the demand that would arise if all the dwellings that are approved under this Plan will be occupied.

This Plan therefore utilises the net average occupancy rates as a basis for determining contribution rates for residential development under this Plan. In order to calculate contributions, the 2011 Census net occupancy rate is assumed to be the average occupancy of all new dwellings – i.e. the gross number of residents of each type of private dwelling divided by the number of occupied private dwellings of that type as set out in Table 3.1.⁷

Table 3.1: Average dwelling occupancy rates – Bega Valley LGA - 2011

	Separate houses	Other dwelling types
Total population of LGA at 2011 Census occupying private dwellings by type (A)	25,517	3,638
Total occupied private dwellings in LGA by type – both occupied and unoccupied (B)	10,503	2,158
Persons per occupied private dwelling in LGA by type (A) / (B)	2.43	1.69

Source: Basic Community Profile, Bega Valley (A) (LGA 10550), 2011 Census on Population and Housing, Australian Bureau of Statistics Catalogue No. 2001.0

⁴ Profile.id, viewed 6 November 2013, http://www.begavalley.nsw.gov.au/cp_themes/default/page.asp?p=DOC-CCY-88-73-54

⁵ Profile.id, viewed 6 November 2013, <http://profile.id.com.au/bega-valley/dwellings>

⁶ Basic Community Profile, New South Wales (A) (Code 1 STE), 2011 Census on Population and Housing, Australian Bureau of Statistics Catalogue No. 2001.0 – B31 Dwelling Structure

⁷ Basic Community Profile, Bega Valley (A) (LGA 10550), 2011 Census on Population and Housing, Australian Bureau of Statistics Catalogue No. 2001.0 – B31 Dwelling Structure

In addition to the above, this Plan adopts an assumed occupancy rate of 1.5 residents for each of the following development types:

- secondary dwellings,
- bed-sitters, one bedroom dwellings, and other single occupancy rooms.

All the assumed occupancy rates for the various Residential Accommodation types are summarised in Table 1.3 of this Plan, and are used to convert the 'per person' contribution rate to a 'per dwelling' contribution rate.

3.3 Development and population projections

3.3.1 Population projections

A significant driver for the demand for new or augmented Local Infrastructure in the LGA will be the expected changes in the population.

The most recent population projections that have been prepared for Council are shown in Table 3.2.

The period of this Plan is from 2006 to 2026.⁸ The highlighted populations in 2006 and 2026 are the figures adopted for the purposes of calculating section 94 contributions.

Council will continue to review the projections to maintain a high level of accuracy in its planning strategies.

Table 3.2: Population, household and dwelling projections – Bega Valley LGA

	Forecast year				
	2006	2011	2016	2021	2026
Population	32,478	32,993	33,722	34,975	36,321
Change in Population from 2011			729	1,982	3,328
Households	13,447	14,197	14,695	15,302	15,923

Source: id. consulting pty ltd., 2012, *How many people will live here in future – Bega Valley Shire*, table p.7

As illustrated in Figure 3.1, the identified growth centres at Kalaru and Wolumla are located inland. This recognises the shortage of available land on the coastline and Council's desire to provide alternative housing options.

Significant organic growth of existing centres is also anticipated in a broad range of centres across the LGA. It is therefore anticipated that the demand for infrastructure will be relatively evenly spread across the LGA.

Bega Valley's dispersed settlement pattern results in a substantial road network, including over 700 kilometres of sealed roads and the same length in unsealed roads. The LGA also includes a number of waterways and the Council is responsible for 227 bridges.

⁸ This Plan identifies certain works completed as at the date of commencement of this Plan. These 'recoupment works' were provided either in preparation for or to facilitate the carrying out of development in the area. The future development in the area will benefit from the provision of these works, and so it is reasonable to seek section 94 contributions for these works.

This settlement pattern also means that the demand for localised facilities, such as open space and community facilities, needs to be met either by centralising at the major centres or alternatively evenly distributing facilities across the LGA. This decision of whether to centralise or distribute local infrastructure requires that Council balance competing objectives. Centralised facilities can generally be provided at a lower cost per person but are located at a greater distance from most residents. Dispersed local facilities are generally closer to their users but are usually delivered at a higher cost per person because there will be fewer users for each facility.

3.3.2 Strategies informing development expectations

Residential development

A range of housing forms is expected to be provided throughout the LGA in the future, as reflected in the Council's position in relation to housing, as it exists today as well as its expectations for the future, as documented in the CSP:

The residential built form often reflects market opportunities or planning policy, such as building denser forms of housing around public transport nodes or employment hubs. Bega Valley Shire shows evidence of a dual housing market, catering for families as well as retirees. This role has remained unchanged since the 1970s and is assumed to continue into the future. Different parts of the shire cater for different housing markets, with families more prominent in and around Bega, and retirees concentrating in coastal towns, particularly Merimbula, Tathra and Bermagui. Like most parts of regional Australia, Bega Valley records a net loss of young adults (18-24 year olds), as they leave the family home to seek education and employment opportunities in larger centres.

There are differences in the supply of future residential land within the shire which will also have a major influence in structuring different population and household futures over the next twenty five years. Although residential development opportunities have been identified across most areas of the shire, the largest amount of new development is expected in Tura - Mirador District and Bega District.⁹

Non-residential Development

In 2011 Council adopted a Business Growth Strategy. Section 3.3 of this strategy identifies the implications:

*Bega Valley Shire's economy is still transitioning from its traditional strengths in primary production and associated export of commodities (agricultural products including dairy, timber products and seafood). While the construction and manufacturing sectors may be the mainstay of the traditional local economy, the **services components of the Shire's economy are growing**, with the associated mix of local consumption of services and **export of tourism and specialist services**. So the Shire's economy is maintaining the all-important export element – even while the nature of those exports is changing.*

*... The Shire's **retail sector is growing slowly**, improving the retail experience for residents and visitors alike.*

...

Retaining suitable stocks of employment lands to supply local demand and potential increases from investment in Eden and Merimbula ports, should be monitored.

⁹ Community Strategic Plan – Bega Valley 2030, p9

Current studies therefore suggest there will be growth in non-residential development including business services, retail and industrial.

This Plan authorises the levying of all non-residential developments above a development cost of \$100,000 a fixed rate levy pursuant to section 94A of the EP&A Act 1979. One of the chief aims of this policy is to extract reasonable monetary contributions from non-residential development to help meet the future infrastructure demands.

4.0 Contribution calculations

This section sets out the following:

- A summary table (Table 4.1) illustrating the cost of works by the Local Infrastructure categories. This table also sets out the cost of works by priority time-frame in which they were constructed or are anticipated to be constructed;
- A summary table dividing these works costs into the infrastructure groupings (INF1 and INF2 as outlined in Table 4.2). INF1 means the infrastructure the costs of which will be met by the projected total future (2026) population of the LGA. INF2 comprises new and upgraded open space and roads, and the costs for these items will be split 25%/75% between the 2011-2026 growth population and the pre-existing (2011) population. This table also includes those populations and then calculates the contribution per person.
- Complete tables outlining the infrastructure works program.

4.1 Summary works costs by infrastructure category and priority

Table 4.1: Summary works costs by infrastructure category and priority

	Completed works (\$)	Priority 1 works (\$)	Priority 2 works (\$)	TOTAL
		2014 - 2020	After 2020	
Open Space and Recreation	\$8,542,000	\$3,454,000	\$2,970,000	\$14,966,000
Community Facilities	\$2,000,000	\$7,520,000	\$0	\$9,520,000
Roads	\$11,748,000	\$21,826,000	\$39,207,000	\$72,781,000
Streetscapes	\$100,000	\$2,550,000	\$2,000,000	\$4,650,000
Land Acquisitions	\$0	\$1,570,000	\$0	\$1,570,000
Plan Administration		\$299,095	\$299,095	\$598,190
TOTAL	\$22,390,000	\$37,219,095	\$44,476,095	\$104,085,190

4.2 Formulas used for determining monetary section 94 contribution rates

4.2.1 Formula for Residential Accommodation development generally

The general formula for calculating monetary section 94 contribution rates under this Plan:

1. Is based on the cost estimates for the various Local Infrastructure items as outlined in Part 4 of this Plan; and the population estimates included in Table 3.2 of this Plan.
2. Categorises the Local Infrastructure items into three groupings, being:
 - (a) 'INF1' - Infrastructure that is demanded by the pre-existing and projected future population of the LGA. Works in this category are:
 - i. open space and recreation and road renewals and recoupments
 - ii. community facilities, streetscape, and land acquisition upgrades, renewals and recoupments

These infrastructure costs are therefore apportioned 9% to the 2011-2026 growth population, and 91% to the pre-existing (2011) total population.
 - (b) 'INF2' - Infrastructure for which the future demand is apportioned on the basis of 25% to the 2011-2026 growth population, and 75% to the pre-existing (2011) total population. Works in this category are
 - i. new and upgraded open space and recreation works and roadworks
 - (c) Plan management and administration costs which are demanded entirely by the 2011-2026 growth population, and so are apportioned 100% to that population.
3. For each infrastructure grouping, the Local Infrastructure total cost is divided by the relevant demand population.
4. The contribution rates determined for the groups are added together to obtain a total contribution rate per person.

The above approach can also be expressed as general formula for calculating section 94 contributions for Local Infrastructure included in this Plan is as follows:

$\text{Contribution (\$) per person} = \frac{\sum (\$INF1)}{\text{TFP}} + \frac{\sum (\$INF2) + \$PM}{\text{TFGP}}$

Where:

- \$INF1 = the estimated \$ cost of providing each item of Local Infrastructure demanded by the entire current and future population of the LGA (i.e. the expected LGA population in 2026). Refer Part 4 for more details.
- \$INF2 = the estimated apportioned \$ cost of providing each item of Local Infrastructure demanded by the future population of the LGA (i.e. the expected population growth from 2011-2026). Refer Part 4 for more details.
- \$PM = the estimated \$ cost of administering the contributions plan

- TFP = Total Forecast Population of Bega Valley LGA at the end date of this Plan (2026).
- TFGP = Total Forecast Growth Population of Bega Valley LGA, being the difference between the population in 2011 and that projected at the end date of this Plan (2026).

The 'per person' contribution rate is then multiplied by the assumed average occupancy rate for each dwelling type as identified in Table 1.3 to determine the Section 94 contribution rates for Residential Accommodation Development as outlined in Table 1.1.

Note: the section 94A levies are calculated on a different basis, i.e. as a percentage of the cost of development as set out in Table 1.2 of this Plan.

Basis for apportioning costs for INF1 and INF2 items

INF1 works comprise recoupment and renewals items.

Recoupment items are works completed in the period from 2006 to the commencement of the Plan and works provided in preparation for or to facilitate the carrying out of development in the Bega Valley LGA.

For the purpose of determining reasonable contributions for recoupment items, the costs must be spread over the benefiting population (refer section 94(3) of the EP&A Act). All residents of the Bega Valley LGA will benefit from facilities that have already been provided. The costs of these items should therefore be shared equally among the expected total population in 2026.

Renewal works will generally involve replacement of existing facilities without any increase in levels of service of those facilities. While a renewal hasn't generally been sized to cater for increasing populations, the growth population will benefit from the facility just as much as the pre-existing population. The costs of these items should therefore also be shared equally among the expected total population in 2026.

INF2 works comprise new and upgraded open space, recreation and roads infrastructure.

The planning of these facilities has taken account of the growth population's needs as well as the pre-existing population's needs, but compared to INF1 works the focus of these facilities is to cater for growth needs.

In some cases the facility is required entirely as a result of the new population. That is, Council would not need to carry out the works if the new development did not occur. For these items it would be reasonable to apportion 100 percent of the costs to the growth population. For other INF2 items the facility sizing reflects a need to address existing deficiencies (i.e. most of the demand for the facility is generated by the existing population).

Given this range of scenarios, and so as to not unreasonably add to the costs of development through high contributions, a conservative approach to the apportionment of costs of new and augmented infrastructure is proposed. This Plan assumes that the growth population 2011-2026 will meet no more than 25 percent of the cost of INF2 works, with the remaining 75 percent being met by the pre-existing population.

4.2.2 Formula for Woodlands Lane catchment contributions

Council plans to undertake road and bridge works in the Woodlands Lane catchment area.

The proposed works are demanded by the following existing and anticipated future development in the catchment:

Development component	No. of lots or dwellings
Existing dwellings - 132 & 137 DP 750227, 491 & 492 DP 1103062, 41, 42 & 43 DP 827636 and 133 & 134/ DP 809474	9
Approved dwellings with condition to construct road and bridge - Lots 79, 105, 116, 119, 120, 135, 136, 138 and 197 DP 750227	12
Potential new lots from Lot 492 DP 1103062	10

The road and bridge are currently in private ownership and Council proposes to upgrade the road to Council standard and assume ownership.

The proposed works include the following:

- Construction of Woodlands Lane and the Crown Public Road from its intersection of Bald Hills Road to the access to Lot 138 DP 750227, namely:
 - i. 6.4 metre wide gravel road with 6.4 metre wide bitumen sealed pavement
 - ii. 200mm thick compacted gravel pavement
 - iii. 1.5 metre wide table drains as necessary
 - iv. All associated storm water and subsoil drainage works
 - v. Installation of guideposts, protection fencing and signposting to standards specific in the Guide to Road Design published by the Austroads, and
 - vi. All other works as necessary to achieve the above
- Construction of a replacement structure for the timber bridge over the watercourse bisecting Woodlands Lane.

Preliminary designs for the above are included in Appendix A1.

The formula for the calculation of the contribution rate is as follows:

$$\text{Contribution (\$) per dwelling or lot} = \frac{\text{\$Traffic}}{D}$$

Where:

\$Traffic = the estimated \$ cost of providing the proposed traffic works

D = the estimated total future development in the Woodlands Lane catchment

4.3 Section 94 contribution rate calculation

4.3.1 Residential Accommodation contributions

The values for the components of the formula described in clause 4.2.1 are shown in Table 4.2.

Table 4.2: Contribution rate calculation table

	Works cost apportioned to TOTAL future population in 2026 ('INF1') ¹	Works cost apportioned to future GROWTH population to 2026 ('INF2') ¹	Total works costs
Open Space & Recreation (A)			\$14,966,000
Open Space works recoupment (B)	\$8,542,000		
Open Space renewals – future (C)	\$1,808,000		
Open Space upgrades – future		25% x (A-B-C) \$1,154,000	
Road works (D)			\$72,781,000
Road works recoupment (E)	\$11,748,000		
Road renewals – future (F)	\$49,794,000		
Road upgrades – future		25% x (D-E-F) \$2,809,750	
Community Facilities	\$9,520,000		\$9,520,000
Streetscapes	\$4,650,000		\$4,650,000
Land Acquisitions	\$1,570,000		\$1,570,000
Plan Administration		\$598,190	\$598,190
TOTAL	\$87,632,000	\$4,561,940	
POPULATION (ERP 2026)	36,321		
GROWTH POPULATION (2011 to 2026)		3,328	
TOTAL contribution per person	\$2,412.71	\$1,370.78	\$3,783.48

Notes:

1 Refer to discussion of apportionment rationale in clause 4.2.1 of this Plan

ERP = Estimated resident population

The 'per person' contribution rate is multiplied by the assumed average occupancy rate for each dwelling type as identified in Table 1.3 to determine the Section 94 contribution rates for Residential Accommodation Development as outlined in Table 1.1.

4.3.2 Woodlands Lane catchment contributions

The contribution is calculated as follows:

$$\begin{aligned}
 \text{Contribution (\$) per dwelling or lot} &= \frac{\$707,000}{31 \text{ lots}} \\
 &= \$22,806
 \end{aligned}$$

APPENDIX A
Contribution Catchment Maps
Works Schedules
Works Location Maps

APPENDIX B

Cost Summary Report