



PENRITH CITY COUNCIL

SECTION 94 PLAN

LIBRARY FACILITIES

(AMENDMENT NO. 1)

in the City of Penrith

Development Contributions Plan
(under Section 94 of the Environmental Planning and Assessment Act, 1979 as amended)

Adopted by Council on 7 May, 2001

Plan takes effect on 22 May, 2001

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1.0 INTRODUCTION

1.1 What is Section 94?

Section 94 of the Environmental Planning and Assessment Act 1979, as amended, empowers Councils to levy contributions from developers for the provision of public amenities and services which are required as a consequence of development.

The Land and Environment Court has determined that section 94 is the sole mechanism that a Council can use to levy contributions from a developer.

The application of Section 94 follows three general principles:

1. The contribution must be for, or relate to, a planning purpose.
2. The contribution must fairly and reasonably relate to the subject development.
3. A reasonable planning authority, duly appreciating its statutory duties, could properly impose the contribution.

Under section 94(1) a Council is able to impose a condition on any development consent, requiring a contribution;

1. to provide works or facilities to be carried out in the future from which the development or its occupants will benefit; or
2. to fund works or facilities which have already been constructed from which the development or its occupants will benefit.

Backlogs in services and facilities which are required to meet the needs of existing development cannot be funded through section 94.

In major growth areas such as Penrith, it is important that baseline facilities and works are provided to sustain an acceptable form of urban development. By using contributions from developers for the provision of essential amenities and services, Council can significantly reduce the burden of cost of additional urban development on existing residents.

1.2 Types of Contributions

Section 94 makes provision for three methods of satisfying a contribution requirement:

1. Dedication of land to Council free of cost.
2. Monetary contribution.
3. Works in kind (Material Public Benefit – physical components not being land, which are of benefit to the general community).

1.3 Purposes of this Plan

The purposes of this Plan are to:

- a) amend the Section 94 Contributions Plan “Development Contributions Plan for Library Facilities” adopted by Council on 8 May, 2000;
- b) enable the levying of developer contributions for the Kingswood Neighbourhood Centre required as a consequence as a consequence of increased demand by an additional population generated by new development for residential purposes including, but not limited to **housing for older people, multi-unit housing** (including integrated housing), **shop top housing, dual occupancy** and **subdivision** across the whole of the city (subject to clause 3.0);
- c) set down Council’s aims and objectives of this Plan and a policy for raising, holding and expending section 94 contributions.

1.4 Financial Information

Council maintains a contributions register in accordance with section 34 of the Environmental Planning and Assessment Regulation 2000.

Council maintains a separate accounting record for this Plan. It contains details of contributions received and expended, including interest on contributions.

These records are available for inspection free of charge.

1.5 Plan Review

This Plan reviews Council’s “Development Contribution Plan for Library Facilities adopted by Council on 8 May, 2000. In accordance with the Regulations, it is separate Plan.

The Plan will be reviewed and updated from time to time on a needs basis. These reviews will be advertised and adopted in accordance with the legislation and regulation.

1.6 Interpretation

Terms used in this plan which are defined in Penrith Local Environmental Plan 1998 Urban Land (as amended) have the meanings set out in that plan.

2.0 AIMS AND OBJECTIVES

The aims and objectives of the Plan are to:

- a) Provide a basis for levying developer contributions over development which increases population within areas affected by this Plan for the provision of library facilities;
- b) Identify the library facilities to be provided within the area affected by this Plan:
- c) Ensure that the provision of library facilities is adequate to satisfy the demand generated by additional development and population growth; and
- d) Employ a user pays policy regarding the funding of services and amenities to ensure that existing residents of the City do not have to subsidise new urban development.

3.0 LAND AFFECTED BY THE PLAN

This Plan applies anywhere residential development is permitted within the City of Penrith, with the exception of the Cranebrook release area, Erskine Park release area, Glenmore Park release area, and the established Stage 1 precinct of the Claremont Meadows release area.

4.0 RELATIONSHIP TO ENVIRONMENTAL PLANNING INSTRUMENTS

This Plan enables the levying of developer contributions where residential development (including subdivision) is permissible in the City of Penrith.

A range of environmental planning instruments apply which set down zoning provisions and development standards for the targeted areas. In the urban areas, the principal planning instrument is Penrith Local Environmental Plan 1998 Urban Land. This plan will ultimately replace existing residential planning controls for the urban areas of the city with a single residential plan. In the rural areas, the main planning instrument is Penrith Local Environmental Plan No. 201 – Rural Lands, which sets out land use and subdivision controls for these areas.

Other planning instruments are applicable to certain residential areas of the city affected by this plan including the Penrith Planning Scheme, IDO 93 (as amended)(Rural Lands), LEP 188 (as amended) (Glenmore Park), LEP 1997 (Penrith City Centre), LEP 1998 (Lakes Environs) and other, minor planning instrument and amendments.

This Plan adopts as its basic rationale the following principles in establishing nexus:

- a) The provision of a service and/or facility via a section 94 contribution is a measurable consequence of the proposed development.
- b) The services and/or facility can be physically provided within a reasonable timeframe.
- c) Contributions raised under this plan are expended on a City-wide basis for the provision of library facilities.

5.1 Library Facilities Nexus

The nexus between new development and the proposed neighbourhood centre is related to:

- a) An increase and densification of population within the City of Penrith which will increase the demand for library facilities, and will require Council to expend funds before it otherwise would.
- b) The demand on materials for users to borrow and refer to increases in direct proportion to the population growth.
- c) The requirement to maintain a facility level at the minimum standard per head to meet the community's demands.

6.0 JUSTIFICATION FOR CONTRIBUTION

6.1 Basis for Contribution

This Plan sets the contribution for addition of library resources for the current phase of the City's growth. Population growth increases demands on library resources, in particular for basic lending resources and research/non-book resources. Demand for library facilities is exacerbated by the high proportion of residents of educational age in the Penrith Local Government Area, comprising approximately 30% of the population but 35% of library users. A consistent minimum of 50% of the Penrith population have joined or used a library within the past two years.

Demand for Basic Lending Resources

The Australian Library & Information Association has a recommended standard of two books per head of population for Public Libraries ('Towards a Quality Service: Goals, Objectives & Standards for Public Libraries in Australia', 1990 p.49). This has been a long standing standard for public libraries and has been the objective of Penrith City Council since 1985. It is a conservative minimum standard, as in 1994/5 the Metropolitan average of library books per capita was 2.46 and for NSW as a whole, 2.47.

On average, the number of items lent per borrower is over 4. Thus, based on only a single visitation per year, a new resident will produce additional demand for at least 4 items. Assuming a 50% participation rate, that averages to a minimum of 2 lending items per new resident.

Existing Capital Infrastructure

Existing landowners have previously contributed through general rate revenue for the capital infrastructure of buildings, base resources and computers. In the last ten years alone, existing residents have funded capital infrastructure estimated at fourteen million dollars which meets the needs of the current and future population anticipated in this plan. It should be noted that at current replacement value, the costs of these facilities would be significantly higher. In addition, the replacement value of the current collection exceeds nine million dollars.

This plan adopts a standard of provision of two books per person for new residents. It is estimated that each existing resident is currently provided for at the rate of 1.4 books per person. The differential between the current level of provision and that proposed under this plan is accounted for by past expenditure priorities on basic facilities and infrastructure. Under this plan, new residents are not being charged for the costs of providing capital infrastructure of buildings, base resources and computers. It should also be noted that Council is currently increasing its expenditure from general revenue to achieve its objective of providing 2 books per person for all residents.

Demand for Research/Non-Book Resources

Whilst library resources are primarily books, there has been an increased demand for additional media formats including CD-ROM and video, mostly as a result of significant changes in educational techniques and major technical developments in recent years. Developments in information technology have significantly increased the demand for computer-based resources and books related to computers. Additionally, internet services are in increasing demand.

A product of its distance from the major research libraries of inner Sydney, is that the Penrith City Library plays a major role in providing an alternative research facility. Historically, it has emphasised its reference collection and this has recently been enhanced by the introduction of the Local Studies/Technical Library.

The average per capita expenditure on Research/Non-book Resources is detailed in Schedule 1 of this plan.

6.2 Explanation of Contribution Rate Per Person

The contribution rate in this Plan is based on the cost of providing library resources as on 8 May, 2000. These costs have been indexed using estimates of the CPI (All Groups-Sydney), these estimates being sourced from Commonwealth Bank Economic Research documents. These indexed Contribution Rates are published in the Fees and Charges Section of Council's Management Plan. Section 7.4 of this Plan refers to the indexation method which will be applied to this Plan. The average cost of providing basic lending resources and research/non-book resources was identified in the Section 94 Contributions Plan "*Development Contributions Plan for Library Facilities*", which was adopted by Council on 8 May 2000. These were as follows:

a) Basic Lending Resources	\$112.00
b) Research/Non-Book Resources	\$ 80.00
Total	\$192.00

A full explanation of these costs is set out in **Schedule 1**.

The Contribution Rate under this Plan is **\$211.00** per person.

7.0 CONTRIBUTION RATES FOR NEW DEVELOPMENT

7.1 What types of development will be levied?

This Plan requires that a contribution be applied to new residential development including, but not limited to, **housing for older people, multi-unit housing** (including integrated housing), **shop top housing, dual occupancy** and **subdivision**.

This Plan does *not* apply to subdivision of existing dwellings where a contribution for library facilities has already been paid in respect of those dwellings and where no additional lots are created.

7.2 Occupancy Rates

For the purposes of calculating the total library facilities contribution, the following **occupancy rates** for different types of new development have been determined:

Multi-unit and Shop-Top Housing	2.4 persons for each new dwelling
DualOccupancy and Subdivision	3 persons for each new dwelling or new lot
Housing for older people	1.5 persons for each new dwelling¹

The above occupancy rates are based on ABS 1996 Census figures for Penrith.

7.3 How to Calculate the Total Contribution for New Development

The **total library facilities contribution** for new development is calculated as follows:

$$\text{Total Contribution} = \text{Contribution Rate} \times \text{Occupancy Rate} \times \text{Number of new dwellings or new lots}$$

Where there is an existing development on the land, the Council may, at its discretion reduce the contribution having regard to the principles of the plan, the increased demand for library facilities, and the number of existing dwellings on the land.

7.3.1 Credits for Contributions

Credits for existing occupancy and vacant allotments apply will be calculated as follows: The total occupancy rate of the proposed development **minus** the occupancy rate of the existing development [being either the existing allotment(s) or the existing dwelling(s), whichever is greater].

The occupancy rate of a vacant allotment, or an allotment where no residential uses exist will be calculated as the equivalent of one existing dwelling.

7.4 Review and Indexation of Contributions

The section 94 contribution rate will be indexed. This indexing is based on the Consumer Price Index (All Groups Sydney) or equivalent index system or a projection thereof. The indexing will be published in Council's Annual Management Plan in July each year and will list the rates for the next 12 month period.

In addition Council may review the entire Contributions Plan, and subject to the regulations could adopt new contribution rates.

There will also be periodic reviews of the plan and the cost of items. At the time of these reviews the revised contribution rate will not apply to developments that have already been approved or have been completed.

This formula automatically adjusts in the first quarter of each management plan for prior estimation errors.

The method of establishing the contribution rate shall be to estimate the result that would be achieved by applying formula on a quarterly basis:

¹In 1996, just over one-quarter (28%) of all older people lived alone. The majority of older people (63%) were living in family households, most of these with their partners. (Source "4109.0 Older People, Australia: A Social Report, 1999", Australian Bureau of Statistics). In the case of housing for older persons, an average occupancy rate of between 1 and 2 persons per new dwelling (1.5 persons) will be adopted in this Plan.

NR = OR X CI/EI

Where **NR** is the new contribution rate,
OR is the contribution rate at adoption of the plan,
CI is the latest Consumer Price Index (All Groups Sydney), and
EI is the Consumer Price Index (All Groups Sydney) which applied at the date of adoption of the plan.

8.0 METHOD AND TIMING OR PAYMENT

8.1 Issue of Consent

When a development consent is issued for a development any contributions required under this plan will be listed in the conditions attached to the consent. The conditions will indicate the contributions required and the time allowed for the payment of the contribution at that stated rate.

Where a development proposal involves work in kind or the transfer of land to Council for public purposes identified in the section 94 budget, the item and the corresponding estimate in the budget will be described in the conditions of consent.

8.2 Indexation of Contributions After Issue of Consent

The contributions payable are stated in a consent at the value payable during the current quarter. Amounts for future quarters are published in the Management Plan current at the time and in subsequent management plans. Should the applicable contribution rates not be validly published in the Management Plan, the rate applicable will be calculated in accordance with the indexing method in part 7.4 of this Plan.

In the event that contributions are not received when due, interest will accrue on the debt at a rate equal to that which is due on unpaid Council rates and indexation will cease.

In the event that a contribution is assessed on this plan, and a subsequent or amended plan comes into force before payment is due, the developer may elect that the payment is due under this plan as at the day before a new plan comes into effect. As at that time, indexation ceases and interest applies in accordance with this part. This election may be made while the development consent remains valid.

8.3 Method of Payment

Payment may be made by any means acceptable to Council provided that if the payment is not by cash or by bank cheque then:

- any costs or commission payable by Council on the transaction or its collection must also be paid, and
- the payment shall not be deemed to be received until Council's bankers acknowledge the funds are cleared.

8.4 Timing of payment

8.4.1 Subdivision Applications

Payment to be made prior to Council signing and releasing the linen plan of subdivision.

8.4.2 Development Applications Involving Building Work

Payment to be made at the time of building approval.

8.4.3 Development Applications where no Building Approval is required

Payment to be made prior to occupation of the premises.

8.5 Deferred Payment of Contributions

Council will give consideration to any request for deferment of contributions on its merits. However, the developer must make written application.

If Council grants such a request it is conditional upon the applicant providing a suitable Bank Guarantee and Deed of Agreement.

A period for deferral of a contribution will be agreed between the applicant and Council prior to preparation of the Bank Guarantee. The Bank Guarantee will be required to be valid for at least twelve months after the end of the agreed period. The period may be extended in circumstances acceptable to Council.

Interest will be charged on deferred contributions equal to the rate applicable to overdue Council rates.

The amount of the Bank Guarantee will be calculated in the following manner:

$$G = C(I+1)^P, \text{ where:}$$

- G** is the amount of the Bank Guarantee;
- C** is the contribution owing at the time the contribution is due;
- I** is the estimated compound interest rate set by Council; and
- P** is the period covered by the guarantee.

The guarantee will be terminated when the payment of cash meets the liability.

The Deed of Agreement is to be prepared by Council's solicitors at full cost to the applicant.

Council also charges an administrative fee for deferred payment of contributions.

The Bank Guarantee will be redeemed by Council should contributions not be paid by the due date.

SCHEDULE 1 – EXAMINATION OF COSTS OF PROVISION OF LIBRARY RESOURCES

The Contribution Rate under this Plan is **\$211.00 per person**.

The cost of providing Library Resources as at 8 May, 2000 is outlined below. This was the date of Council's adoption of the Section 94 Plan, which this Plan supersedes. For the purposes of establishing a contribution rate for this amending Plan, these costs have been indexed, in accordance with the method outlined in para 7.4 of this Plan, to the first quarter of 2001. (Paragraph 6.2 refers).

□ ***Cost of Providing Library Resources as at 8 May, 2000 is calculated as follows:***

• Basic Lending Resources	=	\$112.00
• Average Cost of Research/ Non-Book Resources	=	\$ 80.00
<u>Total Cost Per Person :</u>	=	<u>\$192.00</u>

Examination of Costs of Provision of Library Resources

Basic Lending Resources

The costs of providing lending books per new resident per annum are based on the costs of purchasing and processing two new books per new resident per annum.

Book Purchases: The average price for books is \$51.00. \$51.00 per book
Based on the average price of books sold by Australia's major library supplier, James Bennett, Jan-Oct 1999, the average price for new library books is as follows. Average price of Australian Books is \$31.44. The average price for overseas books, resulting in an average price of \$51.43, which has been rounded down to \$51.00.

Processing charge: The cost of processing each book is \$5.00. \$ 5.00 per book
The \$5.00 is for plastic covering, barcodes, security tags and Labeling etc and it does not include the costs of ordering, Accessioning or cataloguing.

Average cost per book \$ 56.00

Average Cost of Basic Lending Resources is the cost of processing two
New books per new resident per annum, 2 * \$56.00 = **\$112.00**

Research/Non-Book Resources

Special Research Materials \$ 45.00
The average purchase price of research oriented books for the
non-lending reference collection is \$90.00, based on Penrith City
Library purchases July 1998 to June 1999. 50% of expenditure is in
This category. (\$90*50%)

Videos/DVD/CD-ROMS for educational and recreational purposes. \$ 8.00
The average purchase price of videos is \$40.00 based on Penrith City
Library purchases July 1998 to June 1999. It should be noted that
Educational videos are more expensive than mass market videos.
DVD prices are higher although moving towards parity with video.
20% of expenditure is in this category. (\$40 *20%)

Audio CD's \$ 1.25
The library currently provides a small music cassette collection
which is being replaced by audio CD's. The average market price
for Audio CD's is \$25.00. 5% of expenditure is in this category. (\$25*5%)

Toys \$ 4.00
The average purchase price of educational toys is \$40.00, based on
Penrith City Library purchases July 1998 to June 1999. It should be
noted that quality toys are purchased. 10% of expenditure is in this
category. (\$40*10%)

Talking Books and Language Education Cassettes \$ 12.00
The average purchase price of talking books and language education
Cassettes is \$80.00, based on Penrith City Library purchases July
1998 to June 1999. It should be noted that these are multi-cassette
sets. 15% of expenditure is in this category. (\$80*15%)

Total **\$ 70.25**

Average Cost of **Research/Non-Book Resources** is \$70.25, say
\$70.00 plus a processing cost of **\$10.00** per item. The processing
charge covers special packaging/repackaging, barcodes, security
tags and labeling etc and does not include the costs of ordering,
accessioning or cataloguing.

Average Cost of **Research/Non-Book Resources** = **\$ 80.00**