



**Mines and Extractive Industries Road Maintenance –
Section 7.11 Developer Contributions Plan 2019**

March 2019

Notes and Corrections to this Issue.

Please note the following and corrections:

This is a Revision of the current Section 7.11 Contributions Plan (previously Section 94) – Mines and Extractive Industries Road Maintenance

Amendments and Revisions

Issue No	Date	Issue Title	Amendment
1	18 June 1998	Mines and Extractive Industries Road Maintenance	
2	March 2019	DRAFT Section 7.11 Mines and Extractive Industries Road Maintenance	
2	April – May 2019	Public Exhibition Draft	
3	XXXXX	Adopted	
4	XXXXX	Commencement	

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INTRODUCTION

S7.11 Developer Contributions Plan: Mining and Extractive Industries

Section 7.11 of the Environmental Planning and Assessment Act 1979 permits local Councils to authorise the imposition of a developer contribution towards public facilities and/or infrastructure required as a consequence of development, where the development will create additional demand on existing facilities and/or infrastructure.

Contributions may be imposed on any development type that clearly places a burden on existing facilities and infrastructure through increased demand. This plan seeks contributions from mines and extractive industries for maintenance of road networks damaged as a result of the development. Payment of this contribution does not relieve the developer from any conditions of consent for road works identified under a Section 90 assessment as being needed to upgrade the existing road network to a standard compatible with the development. The developer should also be aware that some roads within the Shire will be considered by Council as unsuitable to be used as haulage routes for extractive industry operations without major upgrading at the developer's cost.

A development contribution under s.7.11 can only be imposed where a s.7.11 developer contribution plan is in place as an adopted Council instrument, and complies with the legislative conditions of s.7.11. The contribution plan must meet specific minimum criteria and prove a nexus between the development and the facility or infrastructure. The contribution plan must demonstrate the principles of reasonableness and fairness in the apportionment of costs associated with providing new facilities, guaranteeing that the fair share of cost is distributed according to demand.

PART A

A.1 Name of this contribution plan

This Contribution Plan is known as:

**Nambucca Shire Council
Mines and Extractive Industries Developer Contribution Plan 2019**

A.2 Purpose of this contribution plan

This Contribution Plan is prepared in accordance with s.7.11 of the *Environmental Planning and Assessment Act (1979)*(the *Act*) and the *Environmental Planning and Assessment Regulation 2000* (the *Reg*).

S.7.11 of the *Act* permits Council to place a condition on development consent that will require persons, corporations or any other organisation or body undertaking a specific development to make a monetary or in kind contribution towards the provision of public infrastructure and facilities that are identified to meet the needs of the community as a result of increased demand due to that development.

This Contribution Plan has the following aims and objectives:

- To make the case and prove the nexus between heavy vehicle use of the local road network and the cost of providing road maintenance as a result.
- To determine an equitable and fair contribution rate for the maintenance of the road network as a result of the development.
- To guarantee the existing community is not financially burdened by the costs of road works resulting from damage caused by heavy vehicles associated with the development.
- To formulate a comprehensive and definitive strategy for the assessment, collection, accounting, expenditure, reporting and review of developer contributions imposed for mines and extractive industries road maintenance.

A.3 Land to which this contribution plan applies

This Contribution Plan applies to land indicated within the boundaries indicated at C.1: Contribution Catchment Plan.

A.4 Development to which this contribution plan applies

This Plan applies to all developments falling within the definition of extractive industry. This is defined as:

A the winning of extractive material; or

B an undertaking, not being a mine, which depends for its operation on the winning of extractive material from the land on which it is carried out, and includes any stockpiling, washing, crushing, grinding, milling or separating into sizes of that extractive material on that land.

A.5 Relationship to other plans

This Contribution Plan replaces Nambucca Shire Council s.94 Contribution Plan Mines and Extractive Industries Road Maintenance 1998.

A.6 Periodic review of this contribution plan

This Contribution Plan is based on specific assumptions concerning predicted levels of development within the Contribution catchment over the defined life cycle of the Plan. The Life Cycle is deemed to be no greater than five years from the date of commencement.

A.7 Adjustment of contributions

To ensure that the values of the contributions are not eroded over time by movements in the Consumer Price Index (CPI), Council will amend the contribution rates. The contribution rates listed in Part B.2 will be amended annually from 1st July and increased according to the previous March Quarter CPI to allow for increases in the cost of provision for facilities. Contributions required as a condition of development consent will be adjusted at the time of payment in accordance with the latest CPI (All Groups – Sydney) as published quarterly by the Australian Bureau of Statistics (ABS), using the following formula.

$$\text{Contribution at the time of payment} = C \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

Where:

- C = The original contribution amount as shown on the consent
- CPI 2 = The CPI Number (All Groups – Sydney) currently available from the ABS at the time of payment.
- CPI 1 = The CPI Number (All Groups – Sydney) last published by the ABS at the time of coming into effect of the Plan, or subsequent amendment of the Plan.

A.8 Date of commencement of this plan

This Contribution Plan was placed on public exhibition on 11 April 2019 and adopted by Nambucca Shire Council on [xxxx].

The Plan is effective from 1 July 2019. The date of notification of adoption was published in local newspapers.

This Plan applies to all development applications determined on or after this date.

A.9 Life cycle of this plan

This Plan has a Life Cycle of five years from the date of commencement.

PART B

B.1 Operation of the contribution plan

In the determination of a Development Application, a condition may be imposed by Council requiring a monetary contribution according to the provisions of this Contribution Plan. The Plan applies to all development falling within the definition of extractive industry as at A.4.

B.2 The contribution formula

In order to calculate the contribution rate charged to meet the costs of road maintenance associated with the conduct of mining and extractive industries in Nambucca Shire, the following assumptions are made.

For all road pavements, performance is influenced only by the heavy end of the traffic spectrum. No account need be taken of cars and light commercial vehicles as far as loadings are concerned (Austroads – Pavement Design – A Guide to the Structural Design of Road Pavements).

The increased deterioration of a road pavement can reasonably be related directly to the increase in heavy vehicle loading. For local roads bearing an increase in heavy traffic from a proposed traffic generating development, the increase in road maintenance requirements and hence expenditure, are related therefore to the ratio of heavy vehicle movements generated by the development to the existing heavy vehicle movements on the road prior to the development.

Average road maintenance costs

Contributions will be related to the basic average road pavement maintenance costs (including overheads) on a Shire-wide basis for rural roads. Historical cost data for bridge maintenance has also been included in the calculation with an assumption that the percentage of bridges within the sealed and unsealed sections of the road network are equal. The basic cost is indexed each year in accordance with the Road Cost Index applying to each year ending 30 June. On this basis, the following rates apply:

Year	Rural Sealed Road	Rural Unsealed Road
2013/2014	1,138,778	1,585,879
2014/2015	1,616,900	1,166,900
2015/2016	1,013,329	1,052,154
2016/2017	995,132	936,254
2017/2018	992,406	869,465
Total	5,756,545	5,610,652
Average cost per year	1,151,309	1,122,130

Thus, with:

Total length Sealed Road	266km
Total Length Unsealed Road	304km
Average Annual Sealed Road Maintenance Cost (Ms) per km	\$4,328
Average Annual Unsealed Road Maintenance Cost (Mu) per km	\$3,691

Road Lengths

The lengths of road to which the maintenance contribution will apply are the lengths of sealed (Ls) and unsealed (Lu) road over which loaded vehicles from the development travel to the Pacific Highway. The designated travel route must be specified in the development application.

These road lengths will be multiplied by the average annual maintenance costs and will be specific to each development, its traffic volume, its location and access routes.

Volume

If the number of heavy vehicles initially on the road is expressed as Vi and the total number of heavy vehicles (entering and leaving) from a traffic generating development is Vd, then the ratio of increased damage, and hence additional maintenance expenditure, is expressed as the ratio of:

$$\frac{Vd}{Vi}$$

This figure is multiplied by the length of the road travelled (Ls and Lu) and the average annual maintenance cost (Ms and Mu)

The maintenance contribution per year therefore is:

$$Cs - \text{sealed pavements} \quad \$(Ms \times Ls \times Vd/Vi)$$

$$Cu - \text{unsealed pavements} \quad \$(Mu \times Lu \times Vd/Vi)$$

Method of measurement

The method of determining initial numbers of heavy vehicles on the road should be by traffic count over a minimum period of one week, prior to the commencement of the development and prior to setting the maintenance contribution rate. Where the designated travel route involves the use of more than one road then each road will be treated separately in terms of the road maintenance contribution. Therefore, the total contribution payable for the development will be the sum of all the calculated contribution rates for all the individual roads on the designated travel route.

Traditionally, the method of assessing heavy vehicle movements generated by a development has been to use the project movements provided as part of the EIS accompanying the proposed development application. This practice has, in the past, led to some concerns regarding the reliability of the movements adopted for the purpose of calculating contributions.

In order to overcome this uncertainty and establish some reliability in the basis for contribution calculations, a relationship has been established between the volume of material extracted and vehicle movements generated. Generally, a 30% loose volume factor is adopted with the industry for conversion of solid volume to loose volume and therefore it is assumed that an average haulage truck of loose fill volume represents 7.7m³ of solid volume extracted. The extraction of this amount of material thereby also represents two truck movements (one outward and one return).

Therefore, for a full year's extraction of (X) tonnes, the truck movements would be:

$$\begin{aligned} \text{(X) tonnes} &= \frac{\text{(X)}}{7.7} \times \frac{1}{365} \times 2 \text{ truck movements per day} \\ &= 0.000712 \text{ truck movements per day per tonne} \end{aligned}$$

Therefore, the contribution for sealed roads becomes:

$$\begin{aligned} C_s &= 0.000712 \times \$4,328 \frac{L_s}{V_i} \\ &= \$4.60 \frac{L_s}{V_i} \text{ per m}^3 \text{ (solid volume)} \end{aligned}$$

and the contribution for unsealed roads becomes:

$$\begin{aligned} C_u &= 0.000712 \times \$3,691 \frac{L_u}{V_i} \\ &= \$2.84 \frac{L_u}{V_i} \text{ per tonne (solid weight)} \end{aligned}$$

B.3 When contributions are payable

Payment is required annually by 31 July each year for extracted material for the preceding one year period to 30 June or within 30 days of completion of the extraction works for minor extraction operations. A condition of consent for a mine or extractive industry will be the payment of a contribution for road works.

The contribution will be based on the annual records kept by operators and expressed in terms of tonnes (sold weight) per annum extracted from the mine or extractive industry. The mine or extractive industry must furnish Council with the contribution payment an annual statement of extracted volume, derived from the company's transaction and financial records, the statement being duly audited and certified by the Company's Auditor. The cost of certification is to be borne by the operator. Council reserves the right to confirm the accuracy of the operator's records by survey of the site, at the operator's expense, if Council feels there are discrepancies in the operator's records or no such audited statement is provided by the mine or extractive industry. In the case of confirmation of accuracy of records, if the survey determines that the operator's records were accurate with a plus or minus tolerance of five percent, then the Council will assume responsibility for all the survey expenses.

Late payment of contributions will be subjected to interest charges calculated at the current rate of interest.

Any road maintenance works carried out by the operator on the designated travel route, eg watering, grading, etc, can be credited against the operator's annual contribution provided the work has prior approval from the Council and a written agreement on the value of this work has been signed by both the operator and a Council representative.

B.4 Exemptions and deferrals

There are no exemptions from this contribution Plan.

Council will accept a deferred or periodic payment of contributions subject to the contribution being secured by Bank Guarantee and the deferral being no longer than 24 months. In such a case, the applicant must make a written request.

Council will require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on the condition that:

1. indexing will be calculated from the date the contribution was due until the date of payment;
2. the bank guarantee be by a bank for the amount of the total contribution, or the amount of any outstanding contribution plus an amount equal to 25 months' interest plus any charges associated with establishing or operating the bank security;
3. the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 24 months from the provision of the guarantee or completion of the work;
4. the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development;
5. the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required;
6. where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest has been paid;
7. the applicant will be charged an administrative fee based on the professional fees set in Council's Revenue Policy; and
8. periodic payments for a staged development will be on a pro rata basis – the proportion of the stage of the development in relation to the overall development.

B.5 Works schedule

Due to the uncertainty in relation to development for mines and extractive industries, a contingent works schedule is to be used in accordance with the criterion below:

Income from the contribution will be spent on the road network associated with the development that is subject to the contribution, within a reasonable time frame pertaining to the circumstances of the development.

PART C

C.1 Contribution Catchment - Shirewide

