



PCU023834



GP:TD

29 June 2011

Department of Planning and Infrastructure
Attention: Mr James Archdale
GPO Box 39
SYDNEY NSW 2001

Dear Mr Archdale,

**Re: Glen Innes Severn Council Submission - White Rock Wind Farm
(Application Number MP 10_0160)**

Reference is made to the above Major Project (MP10_0160) and the Department's letter dated 20th May 2011. Council welcomes the opportunity to provide a written submission in respect to the project which has been endorsed by Council at its Ordinary Meeting of Council held on the 23rd June 2011.

At its meeting, Council resolved;

"1. That Council submits Chapter D1 Wind Power Generation Glen Innes Severn DCP 2008 and Glen Innes Severn Section 94A Contribution Plan and requests the provisions contained therein be incorporated into the White Rock Wind Farm development.

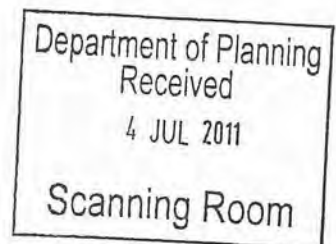
2. That Council objects to the location of any wind turbines which do not comply with the South Australian Environment Protection Authority's Wind Farms – Environmental Noise Guidelines."

Enclosed are copies of Council's documents as detailed above.

For further information or enquiries contact Council's Department of Development & Environmental Services on (02) 6730 2350

Yours faithfully

G W Price
Director Development and Environmental Services





GLEN INNES SEVERN

DEVELOPMENT CONTROL PLAN

WIND POWER GENERATION

Adopted by Council: 22nd May 2008
Effective Date: 29th May 2008

D1. WIND POWER GENERATION

1.1 INTRODUCTION

Areas of the Glen Innes Severn Council have been identified as suitable for the generation of wind borne energy as a large area sits on the Great Dividing Range of NSW. The NSW Wind Atlas prepared by SEDA (now the Department of Energy, Utilities & Sustainability) identifies areas in NSW where wind is a potential resource for wind energy generation from harvesting the wind with turbines and connection to the electricity grid.

With an increasing interest within the Local Government area and recent applications within Glen Innes Severn Council, it was determined necessary to have Development Control measures to ensure where wind farm developments are proposed, that Council has some policy to control or guide such developments. It is the intention of this plan to give the community and potential developers the guidelines for wind farm developments and to allow better decision making on such proposals.

1.2 VISION

Council acknowledges that there is significant local interest in the wind farm debate. Council does support the notion of alternate energy sources such as wind energy generation. Wind farms have been identified in the Glen Innes Severn Council Economic Development Strategy 2008 –2010 as potential developments for the area.

These Development Controls aim to give the community and potential developers the guidelines for wind farm developments so as to ensure such developments do not significantly impact on the community.

1.3 APPLICATION

This plan shall apply from the commencement date, to development relating to commercial wind power generation in Glen Innes Severn Council Local Government area. For the purposes of this Development Control Plan, commercial wind power generation includes wind power generation turbine(s) or towers with a peak capacity of power rated output greater than 10kW.

Applicants will need to take this Development Control Plan into consideration when designing a commercial wind farm in the Glen Innes Severn area and preparing their Development Application.

1.4 OBJECTIVES

The objectives of this plan in relation to wind power generation proposals are:

1. To provide development controls and guidelines that assist in achieving the objectives of the relevant Local Environmental Plan(s);
2. Provide information to be included and assessed with each development application for commercial wind power generation;
3. To minimise potential land use conflicts;
4. Ensure road and access issues are identified as significant aspects of gaining consent for a wind farm; and
5. To ensure that adequate provisions are made to restore developed land at the end of the project's useful life.

1.5 DEVELOPMENT APPLICATIONS

Wind energy generation such as wind farms constitute development requiring consent under the provisions of the Severn Shire and Glen Innes Local Environmental Plans. Each LEP requires development consent to be obtained for the erection or construction of a wind turbine. Erection of a wind-monitoring tower also requires Council's consent.

The appropriate form is required to be completed with all owners of the subject land required to sign the application (owners consent) or provide an original letter of authorisation. No copies or non-original authorisations are permitted. The application must be accompanied by a Statement of Environmental Effects (SEE) or Environmental Impact Statement (EIS) depending upon the size of the proposed development. Applicants should refer to the current version of the Environmental Planning and Assessment Act and associated legislation for the latest criteria for Designated and Integrated development.

Currently the Minister for Planning has determined that the following criteria are used for State Significant Development:

- more than 30 towers; or
- an installed generating capacity of more than 60 MW; or
- an installed generating capacity of more than 30 MW and the towers are in more than one council area.

Any development exceeding this criteria will be required to lodge their Development Application (DA) with Department of Planning (DoP). Developers should also check the requirements of the new Part 3A of the *Environmental Planning and Assessment Act 1979*. Note that DoP generally

requires the assistance of Council in processing the DA for State Significant applications.

Upon lodgment of the DA, Council will generally notify property owners within an area of approximately 5km from the development, depending upon the final design and proposed development. Where a typical wind farm (eg approximately 120m in height to the blade tip) is lodged with Council, properties within a 5.0 km radius of the development will be notified of the development application. All submissions received will be presented to the Council (or Minister) for their consideration in the assessment and determination process.

Where Council is the consent authority, Council will hold a notification and submission period of not less than 60 days and will require the developer to hold a minimum of one public information night during the exhibition and submission period. The developer should consider additional consultation with the community and effected property owners.

Where development consent is gained, construction must not commence until all relevant conditions have been satisfied, a construction certificate has been issued, a Principal Certifying Authority has been appointed, and the relevant advices have been provided to Council (and the consent authority where it is not the Council) in accordance with the EP&A Act and Regulations.

The SEE or EIS should as a minimum contain the following information:

1. The location of the property, boundary dimensions and site area. This should include a map of 1:25000 scale showing the location of the proposed development, the route of transmission lines to the electricity grid (and include access road, pylon, gradient and erosion control assessments), the service roads on and to the site, and the proximity to significant features such as dwellings, environmentally sensitive land, prime crop and pasture land, forests, national parks, heritage items and aircraft facilities.
2. The site plan or plans showing positions of the proposed wind turbines, site boundaries, native vegetation, the proposed vehicular access points, the location of existing and proposed vegetation and trees on the land, the location and uses of all existing and proposed buildings, power lines, sub-station and fences on the land.
3. A description of the proposed wind turbine/s, including all relevant details such as number, make, model, dimensions, generation capacity materials and colour.
4. A land-use description of the adjoining land and/or affected lands and landscape including assessment of the likely future impact.

NB. Applicants are required to keep the local community fully informed throughout their design process.

5. **Noise Impacts** – The Environmental Assessment must include a comprehensive assessment of the predicted noise impacts resulting from the construction and operation of the proposal. The assessment must include consideration of noise impacts of the project, with a particular focus on scenarios under which meteorological conditions characteristic of the locality may exacerbate impacts (such as the van den Berg effect for wind turbines) at sensitive receivers. The probability of such occurrences must be quantified. If any noise agreements with residents are proposed for areas where noise criteria cannot be met, sufficient information must be provided to enable a clear understanding of what has been agreed and what criteria have been used to frame any such agreements. The noise assessment must be undertaken in accordance with:

- *Wind Turbines* – The South Australian Environment Protection Authority's *Wind Farms – Environmental Noise Guidelines*, 2003;
- *Remaining Structures* – In accordance with the NSW EPA *Industrial Noise Policy*, January 2000;
- *Construction Noise* – undertaken in accordance with Chapter 171 of the Environmental Noise Control Manual (EPA, 2004) for noise impacts associated with the proposal, particularly along the main access routes to the site.

The Environmental Assessment must clearly outline the noise mitigation, monitoring and management measures the Proponent intends to apply to the project. This must include an assessment of the feasibility, effectiveness, and reliability of proposed measures and any residual impacts after these measures have been implemented.

6. **Visual Amenity Impacts** – The Environmental Assessment must fully describe all project components, locations and dimensions. A photographic assessment clearly demonstrating the potential visual amenity impacts of the proposal must be provided along with clear description of visual amenity mitigation and management measures that the Proponent intends to apply to the project. An assessment of the feasibility, effectiveness and reliability of the proposed measures and any residual impacts after these measures have been implemented must be included. The Environmental Assessment must assess the visual impact of the proposal of this landscape (including existing and approved dwellings) for a distance of at least 10 kilometres from the turbines, taking into consideration the impact of shadow “flickers” and blade “glint”,

and having particular regard to the communities of Glen Innes and Furracabad Valley. The visual impact assessment should be prepared with regard to the Australian Wind Energy Association and Australian Council of National Trust's *Wind Farms and Landscape Values: Stage 1 Report – Identifying Issues, March 2005, Appendix B: Wind Farms and Landscape Values: Final Issues Paper*.

7. An evaluation of the electromagnetic radiation and/or interference from the wind turbines and/or transmission lines. This should include impacts on human and animal health and local television and radio reception and other local communications.
8. A construction program environmental management plan incorporating the proposed staging of the project, erosion and sedimentation controls, heavy vehicle movements, site access including all service roads, transmission towers, substation, underground wiring, construction phase impacts including facilities, waste disposal, staff/contractor numbers etc, weed control, farm impacts and all other works.
9. An evaluation of flora and fauna impacts with specific mention of migratory species potentially impacted by the development. Where the development is in close proximity to known habitats of rare or endangered species, early consultation with the Department of Environment & Climate Change is highly recommended.
10. A decommissioning and site restoration plan and program.
11. All of the relevant issues in the Planning NSW EIA Guidelines and the NSW Wind Energy Handbook current at the time of the application.
12. Demonstration that relevant Agencies issues have been addressed (eg. CASA for aviation safety, SCA for water quality issues etc.)
13. The heritage significance of the site and surrounds. Reference shall include Council's LEP(s), the Heritage Council, NSW DEC (former NP&WS), the National Trust of Australia and the Australian Heritage Council. The draft Heritage Council of NSW policy on wind farms shall also be referenced.
14. Assessment of the development regarding all relevant legislation and applicable policies. See clause 8(q) of the plan for some of these listings.
15. A Post Construction Monitoring Program detailing, but not limited to, noise measurements (locations, times & dates), shadow flicker assessments (locations, times & dates), fauna impact surveys, traffic movements, maintenance schedules. The Program will identify those issues to be addressed in a Report which is to be lodged with Council on an annual basis and made available for public viewing. Any

inconsistencies arising from the operation of the wind farm and any consent issued by Council are to be addressed in the report. Each application is to be dealt with on its merits and the requirements of the Monitoring Program identified as a result of the community consultation and development assessment process.

Additional information may be required depending upon the circumstances of the development proposal and level of detail, and accuracy provided within the development application.

The Development & Environment Department staff is available to assist people who need to make an application and to advise on the sort of supporting information that may be needed. It is strongly recommended that Council be contacted before design work is finalised and applications are prepared and lodged. Where the proposal is Designated Development, the developer should be contacting DoP before preparing the EIS.

1.6 PLANNING & ENVIRONMENTAL CONTROLS

The following guidelines are Council's minimum for wind farm developments, and should be part of the design criteria and assessment of any related Development Application:

1. The development should be sited and carried out to minimise impacts on, or restrictions to normal grazing, farming, forestry practices;
2. The development should be carried out in a way that minimises any adverse effects on adjoining land and the development site, particularly in the way of:
 - i. Land degradation;
 - ii. Alteration to drainage patterns;
 - iii. Pollution of ground water;
 - iv. Spread of noxious plants and animals; and
 - v. Bushfire hazard.
 - vi. Amenity of adjoining/adjacent/affected landowners
3. The developer must assess the visual impact of the project including an assessment of scenic value. The developer must consult with the Council and the community on appropriate visual impact and their mitigation measures.

4. In addition to point 3 above,, the developer must assess the cumulative impact of the development in regard to existing wind farms or identified sites of proposed wind farms. Council does not favour large expanse of ridgelines being covered with wind farms and turbines.
5. Proposed wind turbines shall comply with the South Australian EPA Wind Farms Environmental Noise Guidelines. Note that where noise levels are found to exceed EPA guidelines, Council will require remediation work such as cessation or decommissioning of the turbines to reduce the noise impacts on sensitive receptors such as non-related dwellings.
6. Where visible from a non related dwelling or immediate surrounds, the development shall not be located within 15 times the blade tip height or 2.0 km's (which ever is the greater) of any dwelling not associated with the development or 15 times the blade tip height or 2.0 km's (which ever is the greater) from a reasonable, practical and suitable dwelling site on any lot that has been created for the purpose of a dwelling. Where turbines are proposed to be significantly higher than such properties/dwellings or where the turbines will dominate the immediate view from the dwelling or dwelling lot, increasing these separation distances is recommended.
7. The development shall not be located within two times the height of the turbine (including the tip of the blade) from a formed public road. The applicable road authority may require a greater distance.
8. The development shall not be located within two times the height of the turbine (including the tip of the blade) from a non-related property boundary.
9. Turbine locations shall be located sensitive to non-related dwellings surrounding the development. Existing and proposed screenings could be used to minimise visual impacts to non-related properties – Note that due to the height of turbines, screening is not the preferred choice of dealing with visual impact. The developer's priority should be endeavoring to position the turbines in locations with low visual impact to near by properties, especially existing dwellings and lots provided for dwellings.
10. Turbine locations are to be sensitive to existing related dwellings on the subject site. Issues of excessive noise, shadow flicker, and general proximity to turbines should be minimised.
11. Turbine locations should not surround a non-related property. Where a non-related property has turbines adjacent to more than one axis of the property, there should be sufficient setbacks/distances to the development to minimise the visual impact of that property.

12. A communications study should identify the existing status of communications and detail the proposed method of dealing with potential communication interference. Developers are advised that many parts of the Glen Innes Local Government Area have very poor radio, TV, mobile phone, two-way reception and the like. The development should not detract from the reception of any of these or other communication methods. Where necessary, it may be required to install additional services (boosters/communication towers/ re-transmission towers etc) to maintain such services in the vicinity of the development. Where this is determined to be necessary, the work and equipment shall be at the developer's cost.
13. The construction phase of the wind farm shall occur only on identified roads/routes. Construction vehicles, including concrete trucks, carriers of turbine components, and related heavy vehicles (including relevant contractors) shall only travel the approved road. This route shall be identified in the development application for each of the construction components and/or contractors.
14. Council requires substantial investigations into the roads chosen for the preferred route. Detailed road condition reports will be required as part of any consent. Council may require the use of the Australian Road Research Board 'laser car' and 'gypsy camera' for this purpose. Full details will also be required of the source of any natural materials to be used for construction of internal roads and other infrastructure.
15. Council will require road works to cope with the over size and over weight traffic movements related to the construction of a wind farm. Bonds will also be required for any potential damage to roads during the construction phase. The road works and bond amounts will be determined by Council professional staff, but will be determined generally by the length of road and condition of road surface/base bridge, drainage etc relevant to the selected route. Where road works are determined necessary for the development, costs associated with the road works shall be the developer's responsibility.
16. Internal roads (roads within the property subject to the development) shall be the responsibility of the developer. Council will require proof that they have been adequately designed and constructed for their purpose. Council (and often other State Government Agencies) shall be provided with adequate information about the environmental aspects of the internal road construction.
17. All infrastructure related to the wind farm should be included in the development application. Management of temporary facilities, waste, numbers of contractors/employees, etc, should be part of the Development Application information. All infrastructure should be located

in low visual impact locations and interconnection cables/wiring and the like should be underground.

18. Developers must consider and refer to the Planning NSW Environmental Impact Assessment Guidelines for wind farms, the NSW Wind Energy Handbook, Best Practice Guidelines for implementation of Wind Energy projects in Australia (AusWEA), S.A. EPA Wind Farm Noise Assessment Guidelines and all other relevant policies and legislation applicable to the proposed development. Reference to relevant Council policies and documents should also be made. Particular reference must be made to "Wind Farms & Landscape Values Foundation Report" and any subsequent documents arising from this report or produced by the Department of Environment & Heritage relative to wind farm developments.
19. Council prefers to have a viewing area where safe vehicle and pedestrian movements can view the wind farm in a safe manner. The developer should liaise in this regard with Council Engineering staff and the RTA.
20. Within six (6) months of the wind turbine generators become redundant, any rights of carriageways that were constructed to enable maintenance to be conducted on the wind turbine generators are to be extinguished by the developer, unless otherwise agreed with the landowner.
21. Within six (6) months of the Wind Turbine Generators becoming redundant, they are to be fully dismantled and removed from the site by the developer or current operator of the development at the time
22. A Bushfire Threat Assessment is to be prepared by a suitably qualified Bushfire Consultant, addressing, but not limited to, the risk of bushfire originating from the development site and the potential for harm/damage should a bushfire encroach on the site.

1.7 OTHER ASPECTS

1.7.1 Section 94A Contribution

Council will require the developer to make contributions in accordance with Council's relevant Section 94A Contributions Plan at the time of lodgement of the Development Application.

1.7.2 Infrastructure

Much of Council's road network is generally not capable of sustaining the over weight loads involved with wind farms and will often require substantial upgrading to permit the wind farm construction vehicles to travel across Council maintained roads. As described above, bonds will be required to ensure any road damage is repaired to Council's satisfaction (minimum pre

construction road condition). Such bonds are payable prior to commencement of the earthworks or construction phase of the development.

1.7.3 Community Consultation

Developers are required to consult with the community, particularly non-related property owners who may be impacted by the proximity of wind turbines. A detailed Community and Stakeholder Communication and Consultation Plan must be prepared at the feasibility stage. The Community and Stakeholder Communications and Consultation Plan needs to demonstrate how the community and affected stakeholders will be informed throughout the development of the project. It should also include opportunities for them to participate in a dialogue at relevant phases of the project.

It is recommended that the Auswind Best Practice Guidelines be adopted in regard to community and stakeholder communication.

1.7.4 Consultation with State Government Authorities

Developers are advised to consult with public authorities that may have a role in assessing their development application, servicing authorities, and make themselves as well prepared as possible when lodging their DA.

Council may forward the DA to the following Government Agencies:

1. Department of Planning;
2. Department of Environment & Climate Change;
3. Department of Primary Industries;
4. The appropriate Catchment Management Authority;
5. NSW Heritage Office;
6. Roads and Traffic Authority;
7. Civil Aviation and Safety Authority;
8. Australian Rail Transport Corporation; and
9. Rural Fire Service.

Other agencies, community groups may also be consulted. It is recommended that the developer familiarise themselves with local groups that may be interested in their development for some local feedback.



Glen Innes Severn Council

Section 94A Development Contributions Plan 2008

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Part A

Executive Summary

This section 94A development contributions plan is called the *Glen Innes Severn Section 94A Development Contributions Plan 2008*.

The plan has been prepared with the purpose of satisfying the requirements of Part 4, Division 6 of the Act and Part 4 of the accompanying Regulation, and the NSW Department of Planning's *Development Contributions Practice Notes*, and to enable the Council to impose, as a condition of development consent and complying development certificates, a requirement that the applicant pay to the Council a levy determined in accordance with the plan. The levy is set at 1% for different types of development, as set out in Part B of the plan.

The plan is designed to be a stand-alone contributions plan.

Levies paid to Council will be applied towards meeting the cost of provision or augmentation of new public facilities. Schedule 1 shows detail of the new public facilities which will be provided by the Council, including the cost of these works, staging and priorities for expenditure.

Part B

Administration and Operation

2.1 WHAT ARE SECTION 94A DEVELOPMENT CONTRIBUTIONS

Section 94A of the Environmental Planning and Assessment Act 1979 provides as follows:

Section 94A Fixed Development Consent Levies

- (1) A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.
- (2) A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.
- (2A) A consent authority cannot impose as a condition under this section in relation to development on land within a special contributions area without the approval of:
 - a) The Minister, or
 - b) A development corporation designated by the Minister to give approvals under this subsection..
- (3) Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.
- (4) A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.

2.2 WHAT IS THE NAME OF THIS PLAN?

This plan is called the *Glen Innes Severn Section 94A Development Contributions Plan 2008*. It will hereafter be referred to as "the plan".

2.3 WHEN DOES THE PLAN COMMENCE?

The plan has been prepared pursuant to the provision of Part 4, Division 6 of the Environmental Planning and Assessment Act 1979 and Part 4 of the Environmental Planning and Assessment Regulation 2000, and takes effect from 5th March 2009. Development applications determined on or after this date will be subject to the provisions of the plan.

2.4 WHAT IS THE PURPOSE OF THE PLAN?

The plan has been prepared pursuant to the provisions of Part 4, Division 6 of the Act and Part 4 of the accompanying Regulation, and the NSW Department of Planning's Section 94A *Development Contributions Plans Practice Notes*. The purposes of the plan are:

- To authorise and require a certifying authority (the Council or an accredited certifier) to impose, as a condition of development consent and complying development certificates, a requirement that the applicant pay to the Council a levy determined in accordance with the plan;
- To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area;
- To publicly identify the purposes for which the levies are required.
- To provide the framework for the efficient and equitable determination, collection and management of development contributions toward the provision of public amenities and services;
- To govern the proper financial management and accountability for the expenditure of development contributions paid to the Council under a condition authorised by the plan;
- To enable Council to recoup funds which it has spent on the provision of amenities and services in preparation for or to facilitate new development; and
- To ensure Council's management of development contributions complies with relevant legislation and guidelines, and achieves best practice in plan format and management.

2.5 TO WHAT AREAS DOES THE PLAN APPLY?

The plan applies to all land within the Glen Innes Severn Council local government area.

2.6 TO WHAT DEVELOPMENT DOES THE PLAN APPLY?

The plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Act in respect of development on land to which the plan applies, with the exception of the following:

- single residential dwellings
- with an estimated cost of less than \$100,000; or
- for the purposes of disabled access; or
- for the sole purpose of affordable housing; or
- for the purpose of reducing a building's use of potable water (where supplied from water mains) or energy; or
- for the sole purpose of the adaptive reuse of an item of environmental heritage; or
- for works undertaken for charitable purposes or by a registered charity; or
- places of worship, public hospitals, police and fire stations; or
- childcare facilities; or
- libraries; or
- other community or educational facilities

2.7 HOW DOES THE PLAN OPERATE?

In determining a development application, the Council may impose a condition requiring the applicant to pay to the Council a levy of 1% of the proposed cost of carrying out the development, provided that Council does not also impose on the consent a condition pursuant to section 94 of the Act. The levy is set at 1% for the different types of development subject to the provisions of the plan.

The plan also requires a certifying authority (the Council or an accredited certifier) to issue a development consent or complying development certificate in respect of development to which this plan applies subject to a condition requiring the applicant to pay a levy to Council. Such levy or contribution will be as follows;

- 0.5% of the development cost where the estimated cost to carry out the proposed development is between \$100,001 and \$200,000; and
- 1% of the development cost where the estimated cost to carry out the development is in excess of \$200,000.

The development costs include all of the costs and expenses incurred by the developer, excluding the cost of the land.

2.8 HOW IS THE PROPOSED COST OF CARRYING OUT DEVELOPMENT DETERMINED?

2.8.1 Cost estimate reports are required

A development application or an application for a complying development certificate must be accompanied by a 'Cost Estimate Report', prepared at the applicant's cost in accordance with this clause, setting out an estimate of the proposed cost of carrying out the development as follows:

Where the estimate of the proposed cost of carrying out the development is less than \$500,000; a cost summary report must be prepared in accordance with Schedule 2; or

Where the estimate of the proposed cost of carrying out the development is \$500,000 or more; a detailed cost report must be prepared in accordance with Schedule 3.

To avoid doubt, the estimated cost of carrying out the work is to be determined in accordance with Clause 25J of the Regulation, as set out in Section 2.8.3. A Statutory Declaration is to be submitted with either report declaring that it contains a true and accurate cost of the proposed development.

2.8.2 Who may prepare a cost estimate report?

For the purposes of Clause 25J of the Regulation, the plan authorises the following persons to prepare a report of the estimated cost of carrying out development:

Where the estimate of the proposed cost of carrying out the development is less than \$500,000; a person who, in the opinion of the Council, is suitably qualified to provide a cost estimate report.

Where the estimate of the proposed cost of carrying out the development is \$500,000 or more; a quantity surveyor who is registered with the Australian Institute of Quantity Surveyors.

Without limitation to the above, upon review of the cost estimate submitted in accordance with this clause, the Council reserves the right to request a further cost estimate to be provided by an independent registered quantity surveyor at the applicant's cost.

2.8.3 Clause 25J of the Environmental Planning and Assessment Regulation 2000

Clause 25J of the Regulation (determination of proposed cost of development) sets out how the proposed cost of carrying out development is to be determined, and provides as follows:

(1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:

- a) If the development involves the erection of a building, or the carrying out of engineering or construction work – the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation.
- b) If the development involves a change of use of land – the costs of or incidental to doing anything necessary to enable the use of the land to be changed.
- c) If the development involves the subdivision of land – the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.

(2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.

(3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:

- a) The cost of the land on which the development is to be carried out,
- b) The costs of any repairs to any building or works on the land that are to be retained in connection with the development,
- c) The costs associated with marketing or financing the development (including interest on any loans),
- d) The costs associated with legal work carried out or to be carried out in connection with the development,
- e) Project management costs associated with the development,
- f) The cost of building insurance in respect of the development,
- g) The costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),
- h) The costs of commercial stock inventory,
- i) Any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.
- j) The costs of enabling access by disabled persons in respect of the development,
- k) The costs of energy and water efficiency measures associated with the development,
- l) The cost of any development that is provided as affordable housing,
- m) The costs of any development that is the adaptive reuse of a heritage item.

2.9 ARE THERE ANY EXEMPTIONS TO THE LEVY?

Council may consider requests to exempt developments, or components of developments from the levy, or reduce the levy to a lesser amount. For such requests to be considered, they must be in the form of a comprehensive written submission arguing the case for exemption or reduction, and must satisfy the Council that there are valid reasons for the exemption or reduction. The decision to accept a request to exempt developments from the levy or reduce the levy is at the absolute discretion of the Council.

2.10 WHEN IS THE LEVY PAYABLE?

A levy required to be paid as a condition of development consent must be paid as follows:

Development applications involving subdivision - prior to the release of any construction certificate related to site works or the release of the subdivision plan, whichever occurs first;

Development applications involving building work - prior to the release of the construction certificate; and

Development applications involving both subdivision and building work (e.g. integrated housing developments) - prior to the release of the construction certificate or the release of the subdivision plan, whichever occurs first.

Development applications where no building approval is required – prior to commencement of use in accordance with the conditions of consent.

If no time is specified, the levy must be paid prior to the first certificate issued in respect of the development under Part 4A of the Act.

From time to time, Council considers requests to defer payments of contributions. Council's policy on deferred payments is detailed in Section 2.13.

Where any self-certification or the like is undertaken the consent shall not operate unless and until the levy required by the consent under this contributions plan is paid to Council.

2.12 HOW WILL THE LEVY BE ADJUSTED?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect quarterly variations in the Consumer Price Index (Sydney All Groups) between the date the proposed cost was determined by the Council and the date the levy is required to be paid.

The proposed cost of carrying out development will be adjusted at the time of payment in accordance with the following formula:

$$\text{IDC} = \text{ODC} \times \text{CPI 2/CPI 1}$$

Where: IDC = the indexed development cost

- ODC = the original development cost accepted or estimated by the Council;
- CPI 2 = the Consumer Price Index: All Groups Index for Sydney (as currently available from the Australian Bureau of Statistics at the time of payment); and
- CPI 1 = the Consumer Price index: All Groups Index for Sydney which applied at the date the original development cost was estimated or accepted by the Council.

Note: Where CPI 2 is less than CPI 1, the indexed development cost will not be less than the original development cost estimated or accepted by the Council.

2.12 WHAT ARE THE OBLIGATIONS OF ACCREDITED CERTIFIERS?

In accordance with section 94EC of the Act and clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of a levy has been satisfied.

In particular, the 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 Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exception to this requirement is where an alternative payment arrangement has been agreed by the Council. In such cases, Council will issue a letter confirming that an alternative payment arrangement has been agreed with the applicant.

2.13 CAN DEFERRED OR PERIODIC PAYMENTS BE MADE?

Council may accept the deferred or periodic payment of a levy required under this Plan if the applicant or any other person entitled to act upon the relevant consent, makes a written request and can satisfy the Council that:

There are valid reasons for the deferral or periodic payment; and

The granting of the request will not adversely impact on the administration, operation or cash flows of the plan; and

The granting of the request will not jeopardise the timely provision of works or land identified within the plan; and

The proposed arrangement remains consistent with the purpose of the plan.

The decision to accept a deferred or periodic payment of a monetary contribution is at the sole discretion of Council. Any deferral will generally be limited to a period of no more than 12 months.

Where Council allows a deferral of contributions or levies an appropriate bank guarantee shall be secured for the amount of contributions to be deferred. The conditions under which the Council may accept deferred settlement by way of lodgement of a bank guarantee are that:

The bank guarantee be by an Australian bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest;

The bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work whichever occurs first;

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 in accordance with the development consent; and

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.

Any deferred or outstanding component of the monetary contribution will be adjusted in accordance with Section 2.11.

The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

2.14 HOW WILL THE COUNCIL APPLY MONEY OBTAINED FROM THE LEVY?

Levies paid to the Council as a condition of development consent will be applied towards meeting the cost of provision or augmentation of public facilities. Schedule 1 shows detail of the public facilities which will be provided by Council, including the cost of these works, staging and priorities for expenditure. Subject to section 93E(2) of the Act and Section 2.16 of the plan, the public facilities in Schedule 1 are to be provided in accordance with the staging set out in that schedule.

2.15 POOLING OF CONTRIBUTIONS?

The Council is satisfied that the pooling and progressive application of contributions funds to the works priorities identified in Schedule 1 will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid.

Pursuant to Section 93E(2) of the Act and clause 27 of the Regulation, the plan expressly authorises the levies paid for different purposes to be pooled and applied progressively to the works priorities identified in Schedule 1 of the plan.

2.16 FINANCIAL AND PUBLIC ACCOUNTABILITY?

The Council is required to comply with a range of financial accountability and public access to information requirements in relation to section 94 contributions. These are addressed in Division 5 and 6 of Part 4 of the Regulation and include:

Maintenance of, and public access to, a contributions register;

Maintenance of, and public access to, accounting records for contributions received and spent;

Annual financial reporting of contributions; and

2.17 ARE THERE ALTERNATIVES TO THE PAYMENT OF THE LEVY?

In determining a development application, the Council may impose a condition requiring the payment of the levy. The normal method of payment of the levy is by way of a monetary contribution; however, if an applicant seeks to make a contribution toward the provision of public facilities other than payment of a monetary contribution, the Council may accept the following:

A material public benefit or works in kind; or

A voluntary planning agreement.

2.17.1 Material public benefit and works in kind

Council may allow applicants to make a contribution by way of works in kind contributions for works that are identified in the plan's works schedule or by way of a material public benefit for works that are not identified in this plan's works schedule, in lieu of part or all of a levy required under the plan. Material public benefits and works in kind are not works required by any other conditions of consent.

The acceptance of material public benefit or works in kind may be offered as part of a development application, or following the granting of development consent. The decision to accept a works in kind or material public benefit in lieu of payment of a section 94A levy is at the sole discretion of Council.

An offer to provide works in kind or material public benefit is to be made to the Council in writing, preferably in the relevant development application and following extensive liaison with the Council. The offer should clearly state:

What material public benefit or works in kind is proposed;

The value of the material public benefit or works in kind, as assessed by a registered quantity surveyor or other appropriate professional;

The timing of provision of the material public benefit or works in kind;

What section 94A monetary contributions the works in kind or material public benefit is proposed to offset; and

If the work has not been identified under the plan (that is, a material public benefit), why it is of an equivalent or greater benefit to the community compared to what has been identified under the plan.

In determining whether to accept a works in kind or material public benefit in lieu of a levy, Council will have regard to any relevant requirements of the current Practice Note issued by the Department of Planning and any other matters as the Council considers relevant in the circumstances of the case.

Where the value of the works in kind or other material public benefit is over \$150,000, Council may require that the works be the subject of a public tender in order for the Council to comply with the *Local Government Act 1993*.

If the Council agrees to a works in kind or material public benefit arrangement prior to issue of development consent, the Council may substitute a condition of consent under section 80A of the Act requiring the works in kind or material public benefit to be carried out for a condition requiring the payment of a levy.

If the works in kind or material public benefit is negotiated following issue of development consent, the applicant may make an application under section 96 of the Act to modify the consent by substituting the condition requiring the payment of a levy with a condition requiring the provision of a works in kind or material public benefit toward the public purpose.

2.17.2 Voluntary Planning Agreement

Section 93F of the Act allows for the negotiation of voluntary planning agreements between councils, developers, and/or other planning authorities. Under the planning agreement the applicant may offer to dedicate land free of cost, pay a monetary contribution, provide a material public benefit, or any combination, to be used for or applied toward a public purpose. The Council may also seek to negotiate planning agreements with relevant parties in relation to major or 'one-off' developments that involve a single land owner.

The public purposes are defined in the Act as (without limitation):

- The provision of (or the recoupment of the cost of providing) public amenities or public services;

- The provision of (or the recoupment of the cost of providing) affordable housing;

- The provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land;

- The funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;

- The monitoring of the planning impacts of development; and

- The conservation or enhancement of the natural environment.

Those purposes may not necessarily relate to the demand of the applicant's development, or the items listed in Schedule 1. The applicant's provision of land free of cost, monetary contribution, or material public benefit may or may not be in addition to a section 94A levy. If the planning authority does not intend to apply the contributions plan, the planning agreement should specifically exclude its application.

A planning agreement negotiated and made under this section shall be subject to any provisions of or Ministerial directions made under the Act or *Environmental Planning and Assessment Act Regulation 2000* relating to planning agreements.

2.18 WHAT DEFINITIONS APPLY?

"ABS" means the Australian Bureau of Statistics.

"Act" means the Environmental Planning and Assessment Act 1979.

"Applicant" means the person, company or organisation submitting a development application.

"Contribution" means the dedication of land, the making of a monetary contribution or the provision of a material public benefit, as referred to in Section 94 of the Environmental Planning and Assessment Act.

"Council" means the Glen Innes Severn Council.

"Development Contributions Plan" means a contributions plan referred to in Part 4, Division 6 of the Environmental Planning and Assessment Act.

"Levy" means a levy under section 94A of the Act, authorised by the plan.

"LGA" means local government area.

"Material public benefit" means something provided by an applicant, other than the dedication of land or the payment of a monetary contribution, which does not relate to an item appearing in the works schedule of a contributions plan.

"Recoupment" means the payment of a monetary contribution to the Council to offset the cost (plus any interest) which the Council has already incurred in providing public facilities in anticipation of development.

"Regulation" means the Environmental Planning and Assessment Regulation 2000.

"Works in kind" means the undertaking of a work or provision of a facility by an applicant which is already nominated in the works schedule of a contributions plan.

Part C

Expected types of Development

3.1 TO WHAT TYPES OF DEVELOPMENT DOES THIS PLAN APPLY?

The expected type of development to which the plan applies is residential in the form of residential land subdivision and medium density development, and industrial, commercial and retail development, as listed (but not limited to) below:

- Villas, townhouses
- Flats, units or apartments
- Dual occupancies
- Seniors Living dwellings
- Subdivisions
- Mixed use development
- Commercial and Retail development
- Industrial development
- Change of use
- Demand for public facilities

3.2 DEMAND FOR PUBLIC FACILITIES

This part of the plan broadly identifies the relationship between the expected types of development in the Local Government Area and the demand for public facilities identified in the plan. This information is based on current demographic information, and an assessment of recent development application data, including residential, commercial, industrial and other employment generating development in the LGA.

ABS data shows that the Glen Innes Severn Shire experienced medium level population growth during the 2001 - 2006 period. Council considers the growth and development of the district as being instrumental in determining the future direction of the LGA and ensuring the prosperity of the Council and the community. The Council has been actively attracting more people, businesses and industries to the area.

This has resulted in recent high demand for residential allotments, a corresponding high level of dwelling and subdivision applications, and new retail, commercial and industrial development either establishing in or relocating to the area.

Glen Innes Severn Council is committed to enhancing the well being of the community through the provision of an efficient and effective range of local government works, services and facilities that fulfill the needs and expectations of the community. Council has developed a five year management plan to provide a program of works and services to improve the facilities available to residents and visitors, and to meet the demand of new development.

The likely population growth and new retail, commercial and industrial development in the area will diminish the enjoyment and standard of public facilities for the existing population unless additional or upgraded facilities are provided to meet the additional demand. Thus the likely population growth and new development will require the provision of additional public facilities.

Part D

Schedule 1 – Works Schedules

The following work schedules give details of the specific public facilities proposed to be provided by the Council, together with an estimate of their cost and staging. To provide a strategy for the implementation of public facilities levied for in the plan, the staging is expressed as a threshold in years. Council's ability to forward fund these facilities is very limited, so their provision is dependant on the collection of sufficient funds and availability of funds from other sources.

4.1 HOUSING & COMMUNITY AMENITY

Item No	Project Description	Estimate	Threshold (Years)
1	Town Drainage – provide underground drainage Church Street, construct and seal shoulder, install kerb and gutter Stage 1 – Taylor Street to Kilkenny Place	\$92,000	2
2	Town Drainage – provide underground drainage Church Street, construct and seal shoulder, install kerb and gutter Stage 2 – Kilkenny Place to United Service Station	\$162,000	3
		\$254,000	

4.2 RECREATION & CULTURE

Item No	Project Description	Estimate	Threshold (Years)
1	Upgrade Wilson Park Stage 1	\$180,000	3
2	Library Resources – purchase new books and resources	\$20,000	2
3	Library Computer Expansion Program	\$25,000	3
4	Library Outdoor Activity Area	\$30,000	3
5	Upgrade Emmaville Hall Facilities	\$70,000	3
6	Upgrade Parklands - Shelters	\$50,000	2
7	Upgrade King George Oval grandstand	\$250,000	5
8	New Toilet Facilities Australian Standing Stones	\$100,000	5
		\$725,000	

4.3 TRANSPORT & COMMUNICATION

Item No	Project Description	Estimate	Threshold (Years)
1	Upgrade Dumaresq Street- West Gwydir Highway Stage 1 – Gwydir Highway North to Taylor Street	\$212,000	5
2	Upgrade Dumaresq Street- West Gwydir Highway Stage 2 – Taylor Street to Herbert Street	\$204,000	5
3	Upgrade Herbert Street East New England Highway	\$186,000	5
4	Upgrade Centennial Drive	\$230,000	2
5	Upgrade Ferguson Street/Dumaresq Street intersection	\$60,000	2
		\$892,000	

4.4 ECONOMIC AFFAIRS

Item No	Project Description	Estimate	Threshold (Years)
1	Extension of Town Hall Car park	\$300,000	3
		\$300,000	

4.5 COMMUNITY SERVICES

Item No	Project Description	Estimate	Threshold (Years)
1	Upgrade Garden Court	\$75,000	3
2	Additional Office Space Garden Court	\$800,000	5
3	Landscaping Garden Court	\$25,000	2
		\$900,000	

Part E

Schedule 2 – Cost Summary Report

[On next page]



Section 94A Cost Summary Report

[For proposed cost of development less than \$500,000]

Applicant Details

Name/Company: _____
Postal Address: _____

Postcode: _____
Phone (daytime): _____ Mobile: _____

Application Details

Development Application No. _____ Construction Certificate No. _____
Complying Development Certificate No. _____ Date: _____
Development Address: _____
Lot: _____ Section: _____ DP: _____

Description of Proposed Development

Analysis of Development Costs

Demolition & site preparation	\$ _____	Fittings & equipment	\$ _____
Excavation	\$ _____	Hydraulic services	\$ _____
Decontamination or remediation	\$ _____	Mechanical services	\$ _____
Structure	\$ _____	Fire services	\$ _____
External wall, windows & doors	\$ _____	Lift services	\$ _____
Internal walls, screens & doors	\$ _____	External works	\$ _____
Wall finishes	\$ _____	External services	\$ _____
Floor finishes	\$ _____	Other related work	\$ _____
Ceiling finishes	\$ _____	Sub-total:	\$ _____

Sub-total carried forward	\$ _____
Preliminaries & margin	\$ _____
Sub-total	\$ _____
Consultant fees	\$ _____
Other related development costs	\$ _____
Sub-total	\$ _____
Goods & Services Tax	\$ _____
TOTAL DEVELOPMENT COST	\$ _____

I hereby certify that I have:

- Inspected the plans the subject of the application for development consent.
- Calculated the proposed cost of carrying out the development in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.
- Included the GST in the estimate of the proposed cost of carrying out the development.

Signed: _____ Date: _____
Name: _____ Position & Qualifications: _____

Statutory Declaration

"I, (Full Name) _____

Of (Address) _____ Post Code: _____

(Occupation) _____ in the State of New South Wales, do solemnly
and sincerely declare that the attached Section 94A Cost Summary Report is a true and accurate estimate of the
proposed cost of the development as described below:

APPLICATION DETAILS

Development Application No: _____ Construction Certificate No: _____

Complying Development Application No: _____ Date: _____

Development Address: _____

Lot(s): _____ Section: _____ DP: _____

DESCRIPTION OF PROPOSED DEVELOPMENT

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions
of the *Oaths Act, 1900*.

Declared at _____, this _____ day of _____ 200 _____

Before me:

Declarant (Signature) _____

This must only be signed in the presence of the JP)

(Signature of JP) _____

(Print Full Name of JP) _____

(NSW Registration Number) _____

Penalties for False Statutory Declarations

The *Oaths Amendment Act 1996* provides that if a
Statutory Declaration is made to gain material benefit and
the offence is dealt with by indictment the penalty is up to
7 years imprisonment. If dealt with summarily then the
penalty is up to 2 years imprisonment and/or a fine of 100
penalty units (\$11,000). If the offence is swearing a false
declaration that does not involve material benefit, the
penalty is up to 12 months imprisonment and/or a fine of 50
penalty units (\$5,500).

Section F

Schedule 3 – Detailed Cost Report

[On next page]



Section 94A Detailed Cost Report

Registered* Quantity Surveyor's Detailed Cost Report

[For proposed cost of development less than \$500,000

*A member of the Australian Institute of Quantity Surveyors

Applicant Details

Name/Company: _____

Postal Address: _____

Postcode: _____

Phone (daytime): _____ Mobile: _____

Application Details

Development Application No. _____ Construction Certificate No. _____

Complying Development Certificate No. _____ Date: _____

Development Address: _____

Lot: _____ Section: _____ DP: _____

Description of Proposed Development

Development Details

Site area	_____ m ²	Gross Floor Area – Car Parking	_____ m ²
Gross Floor Area - Commercial	_____ m ²	Gross Floor Area – Other	_____ m ²
Gross Floor Area – Retail	_____ m ²	Total Floor Area	_____ m ²
Gross Floor Area – Industrial	_____ m ²	Total No. of car parking spaces	_____
Gross Floor Area - Residential	_____ m ²		

Estimate Details

Demolition & site preparation	\$ _____	Cost/m ² of site area	\$ _____
Excavation	\$ _____	Cost/m ² of site area	\$ _____
Decontamination or remediation	\$ _____	Cost/m ² of site area	\$ _____
Construction – Retail	\$ _____	Cost/m ² of gross floor area	\$ _____
Construction – Commercial	\$ _____	Cost/m ² of gross floor area	\$ _____
Construction – Industrial	\$ _____	Cost/m ² of gross floor area	\$ _____
Construction – Residential	\$ _____	Cost/m ² of gross floor area	\$ _____
Car Park	\$ _____	Cost per space	\$ _____
Fit out – Retail	\$ _____	Cost/m ² of retail area	\$ _____
Fit out – Commercial	\$ _____	Cost/m ² of commercial area	\$ _____
Fit out – Industrial	\$ _____	Cost/m ² of industrial area	\$ _____
Fit out – Residential	\$ _____	Cost/m ² of residential area	\$ _____
Professional Fees	\$ _____	% of Construction Cost	_____ %
Total Construction Cost	\$ _____		
Other related development costs	\$ _____		
Sub-total	\$ _____		
Goods & Services Tax	\$ _____		
TOTAL DEVELOPMENT COST	\$ _____		

I hereby certify that I have:

- Inspected the plans the subject of the application for development consent.
- Calculated the proposed cost of carrying out the development in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.
- Included the GST in the estimate of the proposed cost of carrying out the development.

Signed: _____ Position: _____

Name: _____ CPD Certificate No. _____

Date: _____ AIQS Membership grade & ID No. _____

Statutory Declaration

I, (Full Name) _____

Of (Address) _____ Post Code: _____

(Occupation) _____ in the State of New South Wales, do solemnly

and sincerely declare that the attached Section 94A Cost Summary Report is a true and accurate estimate of the proposed cost of the development as described below:

APPLICATION DETAILS

Development Application No: _____ Construction Certificate No: _____

Complying Development Application No: _____ Date: _____

Development Address: _____

Lot(s): _____ Section: _____ DP: _____

DESCRIPTION OF PROPOSED DEVELOPMENT

and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act, 1900*.

Declared at _____ this _____ day of _____ 200 _____

Before me:

Declarant (Signature)

This must only be signed in the presence of the JP)

(Signature of JP)

(Print Full Name of JP)

(NSW Registration Number)

Penalties for False Statutory Declarations

The *Oaths Amendment Act 1996* provides that if a Statutory Declaration is made to gain material benefit and the offence is dealt with by indictment the penalty is up to 7 years imprisonment. If dealt with summarily then the penalty is up to 2 years imprisonment and/or a fine of 100 penalty units (\$11,000). If the offence is swearing a false declaration that does not involve material benefit, the penalty is up to 12 months imprisonment and/or a fine of 50 penalty units (\$5,500).

Part G

Appendix 1 – References

- Australian Bureau of Statistics Census of Population and Housing 1991, 1996 and 2001.
- NSW Department of Planning's Development Contributions Practice Notes.
- Acknowledgement to Guyra Shire Council.