

15.2 Endorse for public exhibition: Draft Section 7.12 Contribution Plan (2024)

CSP Objective: Outcome 5.1: Public funds and assets are managed strategically, transparently, and efficiently

CSP Strategy: 5.1.3 Assets are managed to understand the relevance, importance and lifecycle needs involved in the provision of infrastructure.

Delivery Program: 5.1.3.1 Work to improve Council's ability to meet increases in demand for its public infrastructure and assets

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Summary

The purpose of this report is to seek Council endorsement of the Draft Section 7.12 Contributions Plan 2024 (the Draft Plan) (attached) for public exhibition.

The current Section 7.12 Contribution Plan (the Plan) was adopted on 28 June 2022 and applies to the whole of the Kiama Local Government Area. The Plan levies developments a contribution towards the cost of providing public infrastructure based on the proposed cost of the development.

The Plan has been reviewed to incorporate minor changes such as legislative updates, an updated works schedule, feedback from reports and engagement processes, and a restructure of the document including formatting and other minor changes.

Financial implication

The balance of development contributions held by Council was \$10.8m as at 30 June 2023. This includes \$7.6m held in the Section 7.11 reserve and \$3.2m in the Section 7.12 reserve. In December 2023 the Section 7.11 Plans were repealed, and the balances will be transferred to the Section 7.12 reserve in the 2024 financial year.

The future income received by Council under the Section 7.12 Contribution Plan will fluctuate, depending on the timing and commencement of individual developments, and the value of developments undertaken. The proposed Works Schedule for 2024/25 includes approximately \$435k of capital expenditure, with an additional \$1.43m over the following three years.

The income, expenditure and overall reserve balance will continue to be monitored and reviewed in response to current community needs. The annual allocations will be reviewed and refined based on actual income received and infrastructure projects as they approach delivery phase.

Risk implication

The current adopted Section 7.12 Contribution Plan establishes the framework for council to levy and collect development contributions from developments. This is an important funding source for Council's capital works program.

The 2024 review proposes updates to ensure the policy document remains contemporary, while not making any significant changes to the fundamental approach to levying contributions.

Policy

The Draft Plan has been prepared in accordance with:

Report of the Director Planning, Environment and Communities

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- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- NSW Department of Planning Development Contributions Practise Note
- Kiama Council's Delivery Program.

Consultation (internal)

The Works Schedule has been updated in consultation with the Infrastructure and Livability team to reflect the Infrastructure Delivery Plan. The Plan review has also been discussed at the internal Development Contributions Coordination Group meetings.

Communication/Community engagement

If Council endorses the Draft Plan, it will be exhibited for a minimum period of 28 days to enable community comment.

Following the exhibition period, a report on submissions will be prepared for Council's consideration, along with a recommendation regarding adoption. If no submissions are received, the Plan will be adopted following exhibition.

Attachments

- 1 Draft Section 7.12 Contributions Plan (2024)[↓](#)

Enclosures

Nil

RECOMMENDATION

That Council:

1. Endorse the Draft Section 7.12 Contributions Plan (2024) for public exhibition for a minimum period of 28 days calling for submissions.
2. Receive a further report for consideration, if any relevant submissions are received or if any substantial changes are proposed for any other reasons, detailing the public exhibition outcomes and proposed changes with further recommendations regarding adoption.
3. On the day after completion of the public exhibition period, adopt the Section 7.12 Contributions Plan (2024), if there are no relevant submissions received and there are no substantial changes proposed for any other reasons.

Development Contributions

The Environmental Planning and Assessment Act 1979 (Act) establishes various mechanisms through which a Council can collect development contributions.

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Under Section 7.12 of the Act, contributions can be collected as ‘fixed development consent levies’ based on a percentage of the proposed cost of development. Clause 209 of the Environmental Planning and Assessment Regulation 2021 (Regulation) sets the maximum percentage that can be levied. For the Kiama Municipal Council Local Government Area the levies are:

Where the proposed cost of carrying out the development is:

- Up to and including \$100,000 – Nil
- More than \$100,000 and up to and including \$200,000 - 0.5% of that cost
- More than \$200,001 - 1% of that cost.

Contributions are applied towards the provision, extension, or augmentation of public infrastructure across the contribution area, or towards the recoupment of these costs.

The Kiama Section 7.12 Contribution Plan initially came into force on 24 February 2010 and was last reviewed in 2022.

Proposal

This report proposes to update the current Plan as follows:

1. Replacement of the cover page image to assist in distinguishing the new 2024 Plan from the current 2022 version.
2. Updating of the list of projects to be funded (see Appendix C of the Draft Plan).
3. New maps identifying the location of the proposed projects (projects with no specific location are not identified on the maps).
4. Clarifying development to which a contribution under the plan is required.
5. Updated population and dwelling projection data, based on Remplan 2023.
6. Updating the cost report requirements based on the newly introduced Estimated Development Cost (EDC) and Department of Planning guidelines.
7. Updates to date references throughout the document, renumbering of schedules.
8. Re-formatting of the document in line with council’s current style guide.

The Draft Plan proposes that Section 7.12 contributions are allocated to a range of new infrastructure projects across infrastructure categories, as well as operational expenditure for direct staff costs. The expenditure is summarised in the following table:

Category	2024/25	2025/26	2026/27	2027/28	Total
Open Space and Recreation	\$145,000	\$50,000	\$50,000	\$50,000	\$295,000
Community Facilities	\$30,000	\$30,000	\$30,000	\$30,000	\$120,000
Footpaths and Cycleways	\$160,000	\$260,000	\$260,000	\$260,000	\$940,000
Roads and Traffic	\$60,000	\$20,000	\$20,000	\$20,000	\$120,000
Car parks	\$40,000	\$150,000	\$50,000	\$150,000	\$390,000

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Stormwater	\$0	\$0	\$0	\$0	\$0
Capital Expenditure	\$435,000	\$510,000	\$410,000	\$510,000	\$1,865,000
Administration	\$120,000	\$123,600	\$127,308	\$131,128	\$502,036
Operational Expenditure	\$120,000	\$123,600	\$127,308	\$131,128	\$502,036
Total Expenditure	\$555,000	\$633,600	\$537,308	\$641,128	\$2,367,036

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Conclusion

The Section 7.12 Contribution Plan is an important mechanism to assist with funding public infrastructure within the Kiama LGA. This report recommends that the existing Plan be updated to reflect changes in legislation and Council’s capital works program, as well as other minor amendments.

It is recommended that the Draft Section 7.12 Contributions Plan (2024) (attached) be exhibited for community comment prior to adoption.



Section 7.12 Contributions Plan
2024 DRAFT FOR EXHIBITION

Strategic choices for a sustainable future



Acknowledgement of Country

Kiama Municipal Council acknowledges the Wodi Wodi people on Dharawal country as the traditional custodians of the land on which our Municipality is located. We pay our respects to Elders past, present and future. We are committed to honouring Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters and seas and their rich contribution to our community.

Document Control

Original Version	
Date Effective	24 February 2010

First Review	
Draft endorsed by Council	15 March 2022
Public Exhibition	11 April to 13 May 2022
Adopted by Council	28 June 2022
Date Effective	28 July 2022

Second Review (this document)	
Draft endorsed by Council	[[INSERT DATE]]
Public Exhibition	[[INSERT DATE]]
Adopted by Council	[[INSERT DATE]]
Date Effective	[[INSERT DATE]]
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Next Review Date	June 2026
Department	Planning and Economic Development
Author	Manager Planning and Economic Development

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Executive Summary

Introduction

The Kiama Municipal Council Local Government Area has a current estimated resident population of around 23,000 persons, which is expected to grow to almost 32,000 persons by 2046. This growth will occur in both new urban release areas and in existing urban areas.

Providing good quality, well planned infrastructure to meet the current and future population needs is essential to delivering well planned communities. This contributions plan applies to the whole of the Kiama Local Government Area and enables Council and registered certifiers to levy developments a contribution toward the cost of providing of local infrastructure.

Section 7.12 contributions

Section 7.12 of the *Environmental Planning and Assessment Act 1979* allows councils and certifiers to impose a condition requiring a contribution towards the provision, extension or augmentation of public amenities or public services, or the recoupment of these costs.

Contributions levied under Section 7.12 are calculated based on the proposed cost of carrying out the development, multiplied by the applicable levy percentage rate. Where a contribution is payable on a development, a condition will be included in the development consent or Complying Development Certificate.

Levy Rates

In accordance with clause 209(2) of the *Environmental Planning and Assessment Regulation 2021*, the contribution amount payable will be calculated based on the proposed cost of carrying out the development and the applicable levy rate, as shown in **Table 1** below:

Table 1 Levy Rates

Proposed cost of carrying out the development	Levy Rate
Up to and including \$100,000	Nil
\$100,001 to \$200,000	0.5%
More than \$200,000	1%

Note: The proposed cost of carrying out the development is calculated in accordance with clause 208 of the EP&A Regulation 2021 and is also subject to Ministerial Directions and other provisions as detailed in this Plan.

Strategic choices for a sustainable future



Background

Kiama

The Kiama Municipal Council (KMC) Local Government Area (LGA) is located on the south coast of NSW and is around 260 square kilometers. It is part of the Illawarra-Shoalhaven Region, with Shellharbour and Wollongong LGAs to the north and Shoalhaven LGA to the south. To the western boundary is the Wingecarribee LGA.

The Kiama LGA is home to an abundance of beaches, rainforests, mountains, escarpment, and rural landscapes. Kiama offers diverse arts, culture and heritage, and its strong local communities pull together to provide solid values and cultural pursuits that date back to the Wodi Wodi nation, the Aboriginal peoples of the Kiama region.

"The people of the Kiama Local Government Area love where they live. They value the connections between people and places and the unique lifestyle that communities have been able to build in this area". (Kiama CSP 2022-2032)

The current estimated resident population is around 23,000 persons (REMPPLAN, August 2023). The Kiama township is the largest settlement and other major towns and villages are located in Minnamurra, Kiama Downs, Jamberoo, Gerringong and Gerroa. The area also attracts a large tourist base each year with almost 1 million visitors annually (Destination NSW, 2016).

Forecast Growth

Historically, Kiama has experienced low growth. There have been minimal greenfield sites released and there has been steady infill development occurring in existing areas.

Moving forward, the Illawarra Shoalhaven Regional Plan 2041 identifies that Kiama will need to play a role in delivering regional housing supply, noting that there is a limited supply of identified new greenfield areas. The redevelopment of Bombo Quarry, an Emerging Growth Area, has a potential reuse for employment, residential and recreational uses.

The Kiama Local Strategic Planning Statement (2020) reinforces the need to plan for the future growth and provides a 20 year plan integrating land use, transport and infrastructure planning.

The new development is likely to be located on the fringe of existing towns (in the form of land subdivision) and as infill (in the form of larger dwelling houses, dual occupancies, multi unit housing and secondary dwellings). New residential development will need to be supported by non residential development (for example, retail, commercial and tourist developments).

The population is forecast to grow between 2021 and 2046 from 22,961 to 31,733, an additional 8,772 persons. **Table 2** provides the 5 yearly forecast population between 2021 and 2046, and **Table 3** shows the total growth over 25 years and annualised averages (REMPPLAN, 2023).

To accommodate the projected future population, the number of dwellings is forecast to increase from 10,851 to 14,822 between 2021 and 2046, an additional 3,971 dwellings. It should be noted that relative to NSW, the Kiama LGA has a high proportion of unoccupied dwellings and therefore a lower average occupancy rate (approx. 2.1 persons per dwelling), reflecting its role in tourism and as a coastal holiday home destination. The 5 yearly forecast dwellings between 2021 and 2046 is provided at **Table 4** and **Table 5** shows the total increase in dwellings over 25 years and annualised averages. These projections are based on REMPLAN 2023 data, and are subject to change with ABS and NSW Government updates.

Table 2 Forecast Population 2021-2046

Geographical Area	2021	2026	2031	2036	2041	2046
Kiama Downs - Minnamurra - Bombo	6,046	5,987	6,042	8,222	9,582	9,814
Kiama - Kiama Heights	8,728	9,435	10,094	10,709	11,698	12,676
Gerringong - Gerroa - Werri Beach	5,215	5,273	5,487	5,708	5,944	6,150
Rural Communities	2,972	2,995	3,016	3,039	3,065	3,093
TOTAL KIAMA LGA	22,961	23,690	24,639	27,678	30,289	31,733

Table 3 Population Growth 2021-2046

Geographical Area	2021-2046 Growth #	2021-2024 Growth %	Avg annual growth #	Avg annual growth %
Kiama Downs - Minnamurra - Bombo	3,768	62%	1501	2.5%
Kiama - Kiama Heights	3,948	45%	158	1.8%
Gerringong - Gerroa - Werri Beach	935	18%	37	0.7%
Rural Communities	121	4%	5	0.2%
TOTAL KIAMA LGA	8,772	38%	351	1.5%

Table 4 Forecast Dwellings 2021-2046

Geographical Area	2021	2026	2031	2036	2041	2046
Kiama Downs - Minnamurra - Bombo	2,431	2,456	2,486	3,356	3,911	4,026
Kiama - Kiama Heights	4,450	4,750	5,082	5,397	5,890	6,360
Gerringong - Gerroa - Werri Beach	2,708	2,760	2,851	2,936	3,021	3,106
Rural Communities	1,262	1,290	1,300	1,310	1,320	1,330
TOTAL KIAMA LGA	10,851	11,256	11,719	12,999	14,142	14,822

Table 5 Dwelling Growth 2021-2046

Geographical Area	2021-2046 Growth #	2021-2024 Growth %	Avg annual growth #	Avg annual growth %
Kiama Downs - Minnamurra - Bombo	1,595	66%	64	2.6%
Kiama - Kiama Heights	1,910	43%	76	1.7%
Gerringong - Gerroa - Werri Beach	398	15%	16	0.6%
Rural Communities	68	5%	3	0.2%
TOTAL KIAMA LGA	3,971	37%	159	1.5%

Infrastructure

Infrastructure is key to the livability of communities and helps to create vibrant places.

To support our existing and growing communities, it is important to ensure that infrastructure is well planned, funded and delivered in a timely manner. This will reduce pressure on existing infrastructure and ensure that the demand for infrastructure due to population growth is met.

The types of infrastructure that is considered local 'public amenities and services' (or local infrastructure) for the purpose of this contributions plan include:

- **Open Space and Recreation** - parks, reserves and sports fields.
- **Community Facilities** - libraries, community centers, cultural facilities, public art.
- **Transport** - roads, intersections, bridges, active transport, public transport.
- **Stormwater Management** - detention basins, enhanced storage areas, GPTs
- **Plan administration** - direct staff costs (planning and finance), planning studies.

The types on infrastructure that are not considered as part of this Plan include utilities (water, wastewater, gas and electricity), regional or state infrastructure (ie school and hospitals).

There are many ways infrastructure can be funded, including general revenue, grants, and infrastructure contributions made by developers, also known as Development Contributions.

Development Contributions

Development contributions are levied on developments to help fund the provision, extension or augmentation of public amenities and public services (infrastructure) to be provided in the future, or towards the recoupment of the cost already incurred. Councils commonly levy development contributions under Section 7.11 and/or Section 7.12 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act). A Planning Agreement under Section 7.4 of the EP&A Act is another mechanism for councils to collect development contributions.

Development contributions are a funding source for councils to help deliver infrastructure that is required to support the additional population required as communities grow. Through this mechanism, developers provide monetary contributions, the dedication of land or construction of works, or a combination of these.

Section 7.12 Contributions

Section 7.12(1) of the EP&A Act enables a consent authority to impose a condition of consent requiring that the applicant pay a monetary contribution.

Contributions levied under Section 7.12 are calculated based on the proposed cost of carrying out the development, multiplied by the applicable levy percentage rate.

The contribution amount payable will be set out in the development consent or complying development certificate and will be subject to indexation until the date of payment.

The Section 7.12 contributions collected will help fund, either in part or wholly, public infrastructure as shown at **Appendix C**. This list is subject to review and change as part of the annual operational plan process which is reported and endorsed through council meetings.

Administration and Operation of the Plan

1 Name of this Plan

This contributions plan is the Kiama Municipal Council **Section 7.12 Contributions Plan** (the Plan) and levies contributions under Section 7.12 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

2 Commencement of this Plan

This Plan commenced on 24 February 2010 and was last reviewed on [INSERT DATE].

3 Land to which this Plan applies

This Plan applies to the whole of the Kiama Municipal Council Local Government Area, as shown at **Figure 1**.

4 Legislative Framework

This Plan levied contributions under Section 7.12 of the EP&A Act, which provides that:

7.12 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.*

This Plan has been prepared in accordance with the provisions of the EP&A Act, EP&A Regulation, Ministerial Directions, and the Local Infrastructure Contributions Practice Notes.

5 Purpose of this Plan

The purpose of this Plan is to:

- Authorise Council, a registered certifier or other consent authority to impose conditions under Section 7.12 of the EP&A Act when determining an application on land to which this Plan applies.
- Provide a framework for the equitable calculation, collection, and management of contributions.
- Ensure that each development makes a reasonable contribution towards the provision of infrastructure.
- Assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area.
- Ensure Council's management of development contributions complies with relevant legislation and guidelines.

6 Application of this Plan

This Plan applies to all development for which a Development Application (DA), Complying Development Certificate (CDC) or other EP&A Act application is required. The Plan applies to CDCs issued by both Council and registered certifiers.

7 Development to which this Plan applies

This plan applies to all development where the proposed cost of development is greater than \$100,000, including but not limited to:

Residential development including the construction of new dwellings and other residential accommodation types including secondary dwellings and dual occupancies, alterations and additions to existing dwellings, and subdivision involving construction works.

Commercial development including the construction of new, or the alterations and additions of existing, commercial buildings including business, office and retail premises.

Industrial development including the construction of new, or the alterations and additions of existing, industrial buildings.

Tourist and visitor related development including backpackers, bed and breakfast, farm stay and hotel or motel accommodation.

Other developments for which an application is required, including but not limited to, agritourism, amusement centers, caravan parks, community facilities, educational establishments, health services facilities and recreation facilities.

8 Operation of the Plan

In determining a development application, Council will impose a condition requiring the payment of a contribution in accordance with the provisions of this Plan.

In determining an application for a complying development certificate, Council or the registered certifier will impose a condition requiring the payment of a contribution in accordance with the provisions of this Plan.

Contributions paid to council will be held in a restricted asset account and allocated to infrastructure projects as part of the annual budget preparation process.

9 Savings and transitional arrangements

The contribution plan in force at the time an application is determined (not lodged or submitted) will apply. An application that is modified will continue to be levied in accordance with the Plan that applied at the date of original determination.

10 Proposed Cost of Development

For the purposes of calculating a Section 7.12 contribution, the "proposed cost of carrying out development" is calculated in accordance with clause 208 of the EP&A Regulation.

Clause 208 of the EP&A Regulation provides for the cost to be calculated as follows:

208 Determination of proposed cost of development—the Act, s 7.12(5)(a)

- (1) *The proposed cost of carrying out development must be determined by the consent authority by adding up all the costs and expenses that have been or will be incurred by the applicant in carrying out the development.*
- (2) *The costs of carrying out development include the costs of, and costs incidental to, the following—*
 - (a) *if the development involves the erection of a building or the carrying out of engineering or construction work—*
 - (i) *erecting the building or carrying out the work, and*

- (iii) demolition, excavation and site preparation, decontamination or remediation,
 - (b) if the development involves a change of use of land—doing anything necessary to enable the use of the land to be changed,
 - (c) if the development involves the subdivision of land—preparing, executing and registering—
 - (i) the plan of subdivision, and
 - (ii) the related covenants, easements or other rights.
 - (3) In determining the proposed cost, a consent authority may consider an estimate of the proposed cost that is prepared by a person, or a person of a class, approved by the consent authority to provide the estimate.
 - (4) The following costs and expenses must not be included in an estimate or determination of the proposed cost—
 - (a) the cost of the land on which the development will be carried out,
 - (b) the costs of repairs to a building or works on the land that will be kept in connection with the development,
 - (c) the costs associated with marketing or financing the development, including interest on 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 for the development,
 - (g) the costs of fittings and furnishings, including refitting or refurbishing, associated with the development, except if the development involves an enlargement, expansion or intensification of a current use of land,
 - (h) the costs of commercial stock inventory,
 - (i) the taxes, levies or charges, excluding GST, paid or payable in connection with the development by or under a law,
 - (j) the costs of enabling access by people with disability to the development,
 - (k) the costs of energy and water efficiency measures associated with the development,
 - (l) the costs of development that is provided as affordable housing,
 - (m) the costs of development that is the adaptive reuse of a heritage item.

11 Cost estimate reports

For the purposes of calculating development application fees, the Estimated Development Cost (EDC) including GST is used. The EDC is calculated in accordance with Clause 6 of the EP&A Regulation. All applications for development must be accompanied by a cost report or quantity surveyor report showing the EDC plus GST.

The type of cost estimate report that is required will be determine the EDC value:

- **EDC up to \$100,000** - a cost estimate report prepared by either the applicant, or a suitably qualified person.
- **EDC \$100,001 to \$3 million** - a cost estimate report prepared by a suitably qualified person, such as a builder, a registered architect, AIQS certified surveyor or RICS chartered surveyor.
- **EDC over \$3 million** - a detailed quantity surveyor report prepared by a quantity surveyor certified by the Australian Institute of Quantity Surveyors (AIQS), or a quantity surveyor chartered by the Royal Institute of Chartered Surveyors (RICS).

Where a separate cost estimate is provided specifically to inform the Section 7.12 contribution calculation, any variation to the EDC including GST must be clearly explained and justified. Where a separate cost estimate is not provided, the cost of development on the application form (EDC including GST) will be used to calculate the Section 7.12 contribution.

All cost estimates submitted with applications will be reviewed for accuracy and where unreasonable or significant variations are found these will need to be justified or updated.

12 Levy Rates

In accordance with clause 209(2) of the EP&A Regulation, the contribution amount payable will be calculated based on the proposed cost of development and the applicable levy rate.

Table 6 Levy Rates

Proposed cost of development	Levy Rate
Up to and including \$100,000	Nil
\$100,001 to \$200,000	0.5%
More than \$200,000	1%

Note: the proposed cost of carrying out development is calculated in accordance with clause 208 of the EP&A Regulation, as shown at clause 10.

13 Calculation of contribution

The Section 7.12 contribution amount will be calculated based on the following formula:

$$\text{Section 7.12 contribution} = \text{Proposed cost of development} \times \text{Levy Rate}$$

Where:

Proposed cost of development = see clause 10.

Levy Rate = see clause 12.

Note: The contribution amount is subject to indexation until the date of payment (clause 14).

Note: Please also refer to the other provisions in this Plan that may affect the calculation, for example, Ministerial Directions (see clause 24).

14 Indexation

In accordance with clause 208(5) of the EP&A Regulation, the contribution amount calculated (as per clause 13), will be subject to indexation until the date of payment. The contribution amount will be indexed quarterly using the Consumer Price Index; All Groups, Sydney (CPI) published by the Australian Bureau of Statistics (ABS) based on the following formula:

$$\text{Contribution payable} = \$C \times (\text{CPI}_p / \text{CPI}_c)$$

Where:

C is the original contribution amount (calculated based on clause 13).

CPI_p is the CPI at the time of payment (or current quarter).

CPI_c is the CPI at the time the application was determined.

Note: If an index is lower than the index for the previous quarter, no adjustment will be made.

The quarterly indexation change will be effective on the following days:

Index Quarter	Index released by ABS	Effective From
March Quarter	Late April	1 May
June Quarter	Late July	1 August
September Quarter	Late October	1 November
December Quarter	Late January	1 February

To check the current indexed amount payable please contact Council.

15 Timing for payment

The timing requirements for when the contribution needs to be paid will be set out in the development consent or CDC, and will be based on the following provisions:

For development applications, the contribution is payable as follows:

- DA involving building work - before the issue of any Construction Certificate.
- DA involving subdivision only - before the issue of any Subdivision Certificate.
- DA involving both subdivision and building work - before the issue of any Construction Certificate or Subdivision Certificate, whichever occurs first.

For Complying Development Certificates, the contribution is payable as follows:

- CDC involving building work – before any building work commences.
- CDC involving subdivision only – before the issue of any Subdivision Certificate.
- CDC involving both subdivision and building work – before any building work commences or before the issue of any Subdivision Certificate, whichever occurs first.

Where a development is staged, the application may include a request for any condition requiring the payment of contributions to provide for staged payments.

Where a Ministerial Direction provides alternative provision for the timing of contribution payment, this may override this Plan and the condition of consent (see section 24).

16 Deferred or periodic payments

In most instances, the contribution will be paid based on the timing provisions at clause 15. In limited circumstances, a deferred or periodic payment may be considered however this is at the sole discretion of Council and will require a bank guarantee to be provided as security.

For a deferred or periodic payment to be considered, the applicant must provide a written request and satisfy that:

- Compliance with the condition is unreasonable in the circumstances; and
- There are valid reasons for deferred or periodic payment; and
- Deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program; and

The decision to accept a deferred or periodic payment of a contribution is at the sole discretion of the delegated council officer. Any deferral will generally be limited to a period of 12 months.

If the request for a deferred or periodic payment is accepted, the details must be set out in the condition (and will require a modification if the application had already been determined). The applicant will also be required to provide a bank guarantee on the following terms:

- a) the bank guarantee be by an Australian bank for the outstanding contribution amount, plus an amount equal to thirteen (13) months interest, and
- b) any charges associated with the establishing or operating the bank security are payable by the applicant, and
- c) 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, and
- d) 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
- e) 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 periodic contribution amount will be adjusted in accordance with clause 14 of this Plan and indexed until the date of payment.

17 Payment methods

In all instances, the Section 7.12 contribution will be a monetary contribution. Before arranging payment, please contact Council to check the current indexed amount payable.

The following payment methods are available:

- **Phone** – please call (02) 4230 2222 to pay by credit card.
- **In person** – please visit the Administration Building at 11 Manning Street Kiama to pay by cash, EFTPOS, credit card or bank cheque (personal cheques are not accepted).
- **Post** – please mail a bank cheque to PO Box 75 KIAMA NSW 2533.

In limited circumstances (ie where the contribution amount is greater than \$50,000) a bank transfer may be facilitated. Only full payment is permitted. Where part payments are facilitated, a receipt will not be issued until the contribution has been paid in full.

18 Refunds

Requests for the full or partial refund of contributions paid will be considered in limited circumstances and must be made in accordance with the following requirements:

- The development consent or complying development certificate must not have been acted on and must be formally surrendered, and
- The current landowner must submit a written request to Council, and
- The request for a refund must be made within 12 months of the payment.

A delegated council officer may approve requests for refunds, in part or full, that are made in accordance with the above provisions, or in other circumstances considered reasonable.

19 Expenditure

The Capital Works Program that Council delivers is funded from a mix of budget sources, including contributions collected from this Plan. Section 7.12 Contributions will be allocated to projects through the annual budget preparation process based on the works schedule and will be subject to refinement until the project delivery stage. This may include the review of projects and/or budget allocations as part of the monthly budget review process that is reported to and endorsed by Council.

Section 7.12 of the EP&A Act provides:

7.12 Fixed development consent levies

- (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.*

20 Registered Certifiers – Complying Development Certificates

In accordance with sections 4.28(9) and 7.21 of the EP&A Act and clause 156 of the EP&A Regulation, applications for a complying development certificate are also subject to the provisions of this Plan, and a registered certifier must impose a condition requiring the payment of a Section 7.12 contribution in accordance with the requirements of this Plan.

The condition must include the contribution amount calculated in accordance with this Plan and require payment before any building or subdivision work authorised by the certificate commences. Further information on how to calculate and condition contributions is available on Council's website. The following template condition may be used:

Development Contributions

In accordance with section 4.28(9) of the *Environmental Planning and Assessment Act 1979* and the Section 7.12 Contribution Plan, a contribution of \$(INSERT AMOUNT), subject to indexation, must be paid to Kiama Municipal Council before any building or subdivision work authorised by this certificate commences.

The contributions plan is available on Council's website www.kiama.nsw.gov.au.

In accordance with clause 156(2)(b) of the EP&A Regulation and the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the applicant must provide sufficient evidence to the Certifier so they can ensure that the contribution has been fully paid before any building or subdivision work authorised by the certificate commences.

21 Registered Certifiers – EP&A Act Part 6 Certificates

A registered certifier must not issue a Certificate under Part 6 of the EP&A Act where the development consent imposes a condition in accordance with this Plan unless the condition has been complied with. This applies to the following Part 6 Certificates:

- Construction Certificate
- Occupation Certificate
- Subdivision Certificate

In accordance with clauses 20(b), 46 and 54(2)(f) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, a registered certifier must not issue a Construction Certificate, Occupation Certificate or Subdivision Certificate, unless a condition of the development consent requiring the payment of a Section 7.12 contribution has been complied with.

In accordance with clause 12(2) of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, the certifier must ensure that copies of receipt(s) confirming that contributions have been fully paid are provided to the Council.

22 Planning Agreements

A planning agreement is a voluntary agreement between a planning authority and a developer, under which the developer agrees to make contributions towards a public purpose. This may include the dedication of land, a monetary contribution, any other material public benefit or a combination of these. A planning agreement may or may not exclude the application of Section 7.12 to the development to which the agreement applies.

The provisions of Sections 7.4 to 7.10 of the EP&A Act and clauses 202 to 206 of the EP&A Regulation prescribe the contents, form, subject matter and procedures for making planning agreements. Further information can also be found in Council's Planning Agreements Policy.

23 Housing and Productivity Contribution (HPC)

The Section 7.12 contributions levied under this Plan are local contributions that are paid to council towards the provision of local infrastructure. The Housing and Productivity Contribution (HPC) was introduced on 1 October 2023 and is paid to the state government towards the provision of regional and state infrastructure. The HPC may apply to residential subdivisions, commercial and industrial developments in the Kiama LGA. If applicable, the HPC will be a condition of approval and will be paid to the state government via the Planning Portal

More information is available here: www.planning.nsw.gov.au.

24 Ministerial Directions

A Direction issued by the NSW Minister for Planning under Section 7.17 of the EP&A Act will prevail over the provisions of this Plan. The Ministerial Directions relative to this Plan include:

- *Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015 – issued 14 April 2016 (revokes the Direction issued on 10 November 2006)*
If a development contribution under section 7.11 of the EP&A Act has been required in respect of the subdivision of land (initial subdivision), a levy under section 7.12 of the EP&A Act may not be required in respect of any other development on the land, unless that other development will, or is likely to, increase the demand for public amenities or public services beyond the increase in demand attributable to the initial subdivision.
- *Environmental Planning and Assessment Act 1979 - issued 14 September 2007*
A contribution cannot be imposed on development for the purposes of any form of seniors housing as defined in the State Environmental Planning Policy (Seniors Living) 2004 where the development consent is granted to a social housing provider as defined in the SEPP (Seniors Living) 2004.
Note: The provisions of SEPP (Seniors Living) 2004 are now in the SEPP (Housing) 2021.
- *Planning Circular D6 - Crown Development Applications and conditions of consent 1995*
Contributions levied on Crown development should be in accordance with the matrix table, which provides a guideline on appropriate categories of contributions for each Crown activity.

Further details on current Section 7.17 Directions can be found at www.planning.nsw.gov.au.

25 Pooling of contributions

This Plan authorises monetary Section 7.12 contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The indicative timing of infrastructure delivery and priorities for the expenditure of levies is provided at **Appendix C**.

26 Review and update of the Plan

This Plan will be reviewed on a regular basis, ie every 2 years, to ensure the works schedules respond to the evolving infrastructure needs of the Kiama population.

Pursuant to clause 215(5) of the EP&A Regulation, minor adjustments or amendments to the Plan may be made without preparing a new plan.

All costs directly related to the direct review and management of this Plan will generally be funded through the contributions collected under the Plan.

27 Accounting for Contributions

In accordance with clause 218 of the EP&A Regulation and the Local Government Code of Accounting Practice and Financial Reporting (Office of Local Government), accounting records of contributions are distinguished from other accounts through the use of separate restricted accounts. Funds held are invested in accordance with Council's Investment Policy.

At the end of each financial year, Council includes a Statement of Development Contributions in its Annual Financial Statements that includes the following information:

- a) opening and closing balances of money held by the Council for the accounting period.
- b) total amounts received by way of monetary contribution under this Plan.
- c) total amount spent in accordance with this Plan.
- d) outstanding obligations to provide works for which contributions have been received.

Note: There is no Goods and Services Tax (GST) applicable to the payment of development contributions made under the EP&A Act. The expenditure of contributions will include GST.

28 Reporting on Contributions

In accordance with clauses 217-220 the following information is publicly available:

- Contributions register.
- Accounting records for contributions collected and expenditure.
- Annual financial reporting of contributions.
- Public access to contributions plans and supporting documents.

Appendix A Definitions

Generally, and unless otherwise stated, terms used in this Plan should be taken to have the same meaning as the relevant legislation. Specific terms used in this Plan include:

Acronym/Term	Definition
Applicant	means a person, company or organisation submitting a development application or an application for a complying development certificate or a person, company or organisation authorised to act on a consent.
Application	means a Development Application or Complying Development Certificate.
CDC	means a Complying Development Certificate.
Council	Kiama Municipal Council.
CPI	Consumer Price Index, All Groups Sydney (Series ID A2325806K) as published by the Australian Bureau of Statistics (ABS).
DA	means a Development Application.
DPHI	NSW Department of Planning, Housing and Infrastructure.
EP&A Act	Environmental Planning and Assessment Act 1979.
EP&A Regulation	Environmental Planning and Assessment Regulation 2021.
HPC	Housing and Productivity Contribution.
Infrastructure Item	Means local infrastructure including but not limited to: <ul style="list-style-type: none"> • Open Space and Recreation - parks, and sports fields. • Community Facilities - libraries, community centers. • Transport - roads, intersections, active transport, public transport. • Stormwater Management - detention basins, GPTs • Plan administration – direct staff cost, planning studies.
KMC	Kiama Municipal Council
LGA	Local Government Area.
Plan	means this Section 7.12 Contributions Plan.
Registered Certifier	means a person who is registered under the <i>Building and Development Certifiers Act 2018</i> and who is acting in respect of matters to which the registration applies.
SEPP	Means a State Environmental Planning Policy
VPA	Means a Planning Agreement under Section 7.4 of the EP&A Act

Appendix B Supporting Documents

The following plans and policies informed the preparation of this contributions plan:

- Illawarra Shoalhaven Regional Plan 2041 (NSW Department of Planning, Industry and Environment, May 2021)
- Kiama Community Strategic Plan 2022-2032
- Kiama Local Strategic Planning Statement (Kiama Municipal Council, 2020)
- Kiama Local Environmental Plan 2011
- Kiama Development Control Plan 2020
- Population, Households and Dwellings Forecasts to 2046 (REMPLAN, August 2023)
- Kiama Regional Economic Development Strategy 2018-2022 (Kiama Municipal Council and NSW Government, 2018)
- Kiama Regional Economic Development Strategy - 2023 Update (Department of Regional NSW, 2023)

Appendix C Works Schedule

The Capital Works Program that Council delivers is funded from a mix of budget sources, including contributions collected from this Plan. Section 7.12 contributions are allocated to projects through the annual budget preparation process based on this schedule and will be subject to refinement until the project delivery stage. This may include the review of projects and/or allocated amounts as part of the quarterly budget review process that is reported to and endorsed by Council. Section 7.12 contributions currently allocated to projects are shown below.

Project No.	Project Name	Description	Location	2024/25	2025/26	2026/27	2027/28
Open Space and Recreation							
201072	Coronation Park Power	Provision of 3 phase power.	Kiama	\$20,000	-	-	-
200084	Emery Reserve Playground	Renewal of playground	Gerroa	\$10,000	-	-	-
201177	Stafford Street Reserve	Replacement play equipment	Gerroa	\$40,000	-	-	-
201053	Open Space and Recreation	Strategic Plan priority actions	Various	\$50,000	-	-	-
201083	Open Space and Recreation	General budget allocation	Various	\$25,000	\$50,000	\$50,000	\$50,000
Community Facilities							
201009	Council building upgrades	Upgrade of council administration building	Kiama	\$30,000	\$30,000	\$30,000	\$30,000
Active Transport – Footpaths and Cycleways							
200157	Bombo Headland Eco Walk	Construction of walkway.	Bombo	\$10,000	-	-	-
201011	Active Transport Signage	Signage along cycleways	Various	\$10,000	-	-	-
201019	Bicycle facilities	Delivery of bicycle facilities program	Various	\$10,000	\$10,000	\$10,000	\$10,000
201079	Footpaths and cycleways	General budget allocation	Various	\$50,000	\$250,000	\$250,000	\$250,000
TBC	Construction of missing links	Construction of walkways.	Kiama	\$80,000	-	-	-

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Project No.	Project Name	Description	Location	2024/25	2025/26	2026/27	2027/28
Roads and Traffic							
200981	Minnamurra Primary School	Upgrade of Kiss & Drop Zone	Minnamurra	\$20,000	-	-	-
201067	Bong Bong Street Pedestrian Crossing	Black spot project	Kiama	\$20,000	-	-	-
201086	Traffic Facilities	General budget allocation	Various	\$20,000	\$20,000	\$20,000	\$20,000
Car parks							
201171	Car parks - new and upgrades	General budget allocation	Various	\$15,000	\$150,000	\$50,000	\$150,000
201174	Surf Beach / Barney Street	Carpark upgrade - design	Kiama	\$10,000	-	-	-
201175	South Kiama Drive Service Road	Carpark - design	Kiama	\$15,000	-	-	-
Stormwater management							
N/A	N/A	N/A	N/A	-	-	-	-
TOTAL CAPITAL EXPENDITURE				\$435,000	\$510,000	\$410,000	\$510,000
Plan Administration							
N/A	Contributions Planner	Dedicated contributions staff	N/A	\$100,000	\$103,000	\$106,090	\$109,273
N/A	Contributions Accountant	Dedicated contributions staff	N/A	\$20,000	\$20,600	\$21,218	\$21,855
TOTAL OPERATIONAL EXPENDITURE				\$120,000	\$123,600	\$127,308	\$131,128
TOTAL				\$555,000	\$633,600	\$537,308	\$641,128

Appendix B Maps

Figure 2 Works Schedule Map 1

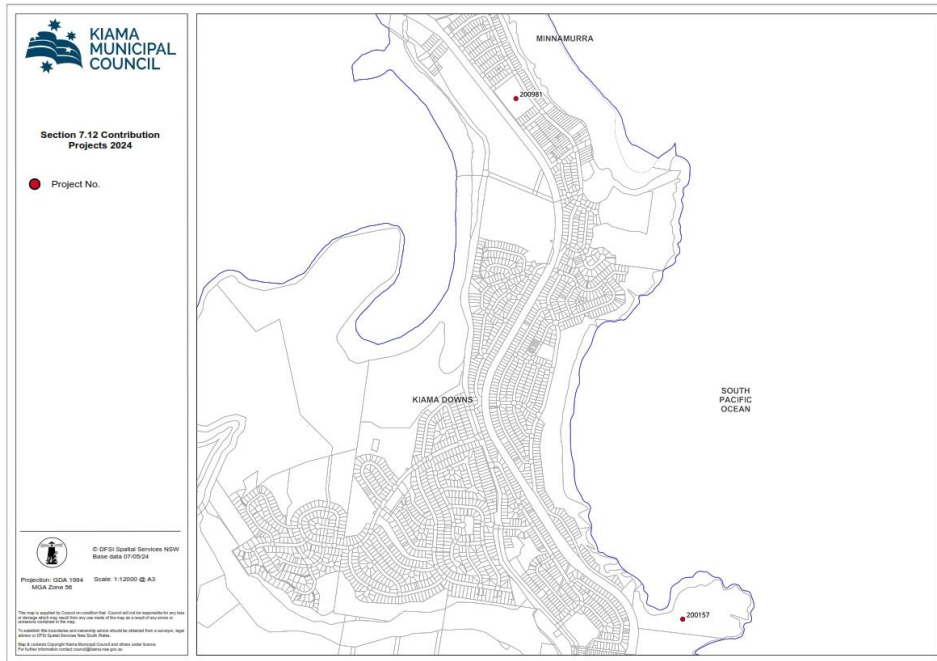


Figure 3 Works Schedule Map 2

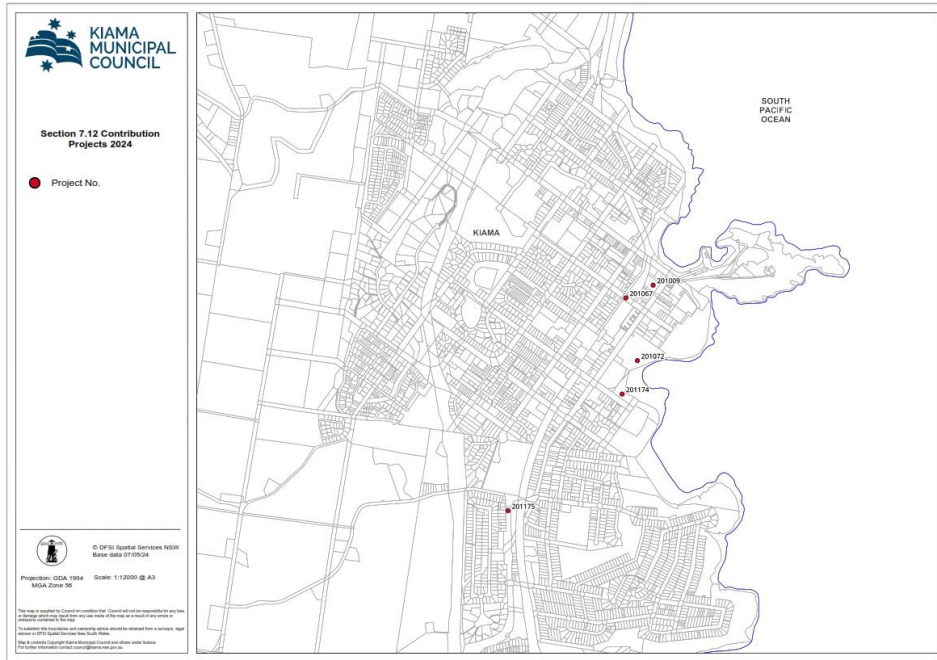
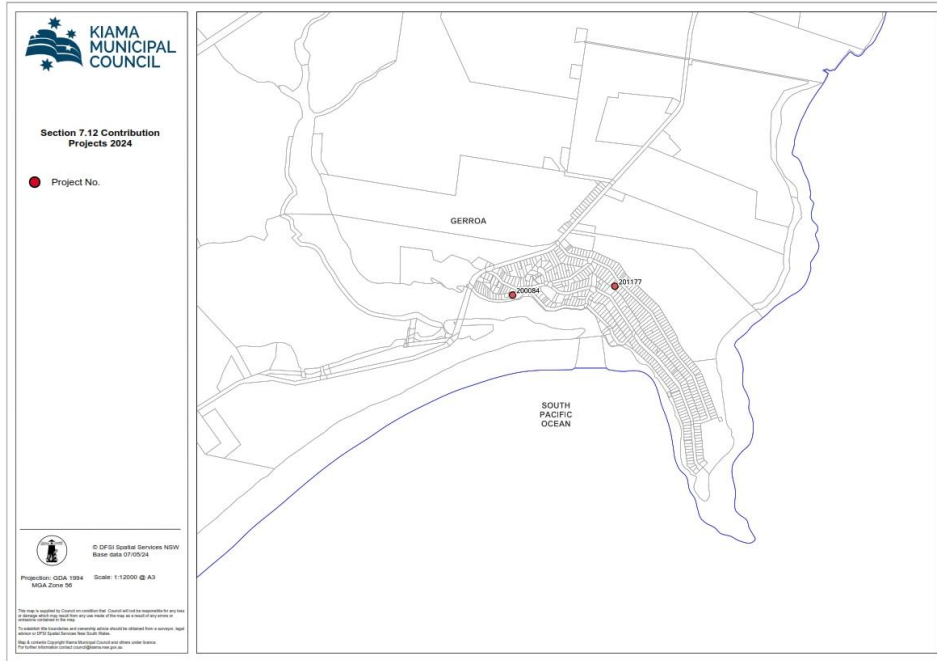


Figure 4 Works Schedule Map 3



Item 15.2

Attachment 1