

FILE NO: PSC2009-06551

TITLE: CONTRIBUTION TO WORKS FOR KERB AND GUTTERING CONSTRUCTION

OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to allow Council to charge residents a contribution to works for the construction of new kerb and guttering built adjacent to their property.
- 1.2 This policy provides a framework to apply a contribution based on land zoning.

2. CONTEXT/BACKGROUND:

- 2.1 Kerb and guttering provides a clear boundary between the road pavement and the footpath reserve. It functions to collect and control stormwater runoff from both private properties and the roadway. Landowners, especially in urban areas, consider kerb and guttering an integral and necessary part of any road network.
- 2.2 Kerb and guttering improves the environment by reducing sediment transfer to improve water quality. Kerb and guttering reduces road shoulder scouring as well as the ability for water to pond on the road shoulder and roadside verge area which allows water to penetrate the pavement causing road failure.
- 2.3 The Roads Act 1993 allows Council to recoup the cost of installing kerb and guttering from the adjacent property owner. A repayment system outlined in the policy statement enables property owners to repay contributions to works over a period of time if they cannot afford the lump sum payment. This is time limited based on the amount owing and is broken into pensioner and non-pensioner schedules. Aged pensioners who satisfy the eligibility criteria can also make application to defer any contributions to works under Council's Debt Recovery and Hardship Policy.

3. SCOPE:

- 3.1 That the contribution structure be fair and equitable and accepted by the general community.
- 3.2 When constructing new kerb and guttering for the community within a public road, Council will require a contribution from those adjoining property owners.
- 3.3 That Council makes every endeavour to notify the property owners affected prior to commencing the work and provides details of work to be carried out and an approximate amount of any contribution to be paid. In exceptional circumstances when Council is unable to notify property owners prior to works and of costs, the owners are still liable to pay the contribution.

- 3.4 That this policy details all of the different situations and that contributions are consistently applied, to prevent any exceptions occurring.
- 3.5 Fees are to be reviewed annually through the Council's fees and charges.
- 3.6 The amount charged is not to be more than half of the actual cost of construction as denoted in the Roads Act 1993.
- 3.7 The owner of the property becomes liable to pay the amount on receiving the notice. If the property is sold after notification has been given, the liability to pay the contribution will be the responsibility of the new owner.
- 3.8 Council will advise potential new property owners by indicating what liabilities exist when issuing a certificate under section 603 of the Local Government Act 1993.
- 3.9 Contributions are not applicable when the Director of Facilities & Infrastructure determines that no direct benefit can be derived from the construction.
- 3.10 Contributions may be repaid over a period of time provided payments are made fortnightly in accordance with the following schedule:

a) Non Pensioners

Contribution amount (\$)	=<\$500	>\$500 to \$1,000	>\$1,000
Time to Pay	Up to 12 months	Up to 2 years	Up to 4 years
Minimum fortnightly repayments	\$20	\$20	\$20

b) Pensioners

Contribution amount (\$)	=<\$500	>\$500 to \$1,000	>\$1,000
Time to Pay	Up to 2 years	Up to 4 years	Up to 5 years
Minimum fortnightly repayments	\$10	\$10	\$10

- c) Regardless of the original source of funding for the construction of kerb and guttering (original source must be less than 100% of the total cost of construction), Council will require owners' contribution in all cases where such construction fronts privately owned land as zoned below.
- d) Any resident or ratepayer who satisfies the eligibility criteria may make application to defer or waive any contribution, or apply for financial assistance towards kerb and gutter construction under Council's Debt Recovery & Hardship Policy.

3.11 Assessing the Application Based on Land Zoning

- a) The applicability of any contribution is based on the land zoning of the property. List of land zones where a contribution is applicable for Kerb and Guttering:

- R1 General Residential

- R2 Low Density Residential
- R3 Medium Density Residential
- R5 Large Lot Residential
- B7 Business Park
- E4 General Industrial.
- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- W4 Working Foreshore
- RU5 Village
- C2 Environmental Conservation
- SP1 Special Activities
- SP2 Infrastructure Recreation Zones
- RE2 Private Recreation
- CA Complex Area
- MU1 Mixed use

3.12 Boundary Location & Calculations of Construction Costs

- a) There are three different rate structures to be applied once the zone applicability has been established:
 - Front boundaries: 50.0% of the average construction cost.
 - Corner Lots - Side & Front boundaries: 33.3% of the average construction cost.
 - Rear boundaries: 25.0% of the average construction cost.
- b) The length used in the calculations is the length of the property boundary, but not more than the actual length of the kerb and guttering being constructed.
- c) In the case of properties with strata title the cost shall be shared between all lot owners in the same proportions as unit entitlement for the scheme under s.267 Strata Schemes Management Act 2015.
- d) In the case of properties with community title and private internal roads the cost shall be recovered from the community association.
- e) In the case of properties with community title and public internal roads the cost shall be recovered from the adjoining owner of land whether that be a community, precinct or neighbourhood association or individual precinct or neighbourhood lot owner.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Kerb and Guttering	A concrete barrier used to define the edge of a road and drainage purposes. This includes kerb only, upright kerb and gutter, rolled kerb and gutter and dished or v-drain gutter.
Land Zone	As prescribed in Councils Local Environmental Plan (LEP) 2013. This Plan aims to make local environmental planning provisions for land in Port Stephens in accordance with the relevant standard environmental planning instrument under section 33A of the Environmental Planning and Assessment Act 1979.
Contribution	A payment or levy to give in order to help achieve or provide something.

5. STATEMENT:

- 5.1 To improve stormwater runoff water quality and control.
- 5.2 Improve the character of the area in which kerb and guttering is being installed.
- 5.3 Create an additional source of income for projects allowing more kerb and guttering to be constructed.
- 5.4 To be fair and equitable for the ratepayers of Port Stephens Council.

6. RESPONSIBILITIES:

- 6.1 Assets Section Manager is responsible for the implementation and administration of the policy and procedures (notification of work notices to property owners, calculation of fees etc).
- 6.2 Financial Services Section Manager is responsible for the invoicing and collection of contributions for the works.

7. RELATED DOCUMENTS:

- 7.1 Roads Act 1993 – Section 217 (NSW).
- 7.2 Port Stephens Council Local Environmental Plan.
- 7.3 Port Stephens Council Schedule of Fees & Charges.
- 7.4 Local Government Act 1993 (NSW).

CONTROLLED DOCUMENT INFORMATION:

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Author	Assets Section Manager		
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VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1	09/02/2010	Assets Section Manager		018
2	23/06/2015	Assets Section Manager	Adopted by Council.	175
3	13/8/2019	Assets Section Manager	Review and updated to new Corporate Template. 2.3 Make one change – replace “to” with “the”. No submissions from Public Exhibition. Adopted by Council.	183
4	08/02/2022	Assets Section Manager	Reviewed and updated to new Corporate Template. Updated 3.12c “In the case of properties with strata title the cost shall be shared between all lot owners in the same proportions as unit entitlement for the scheme under s.267 Strata Schemes Management Act 2015”. Added 3.12d “In the case of properties with community title and private internal roads the cost shall be recovered from the community association.” Added 3.12e “In the case of properties with community title and public internal roads the cost shall be recovered from the adjoining owner of land whether that be a community, precinct or neighbourhood association or individual precinct or neighbourhood lot owner.”	018

Version	Date	Author	Details	Minute No.
5	11/03/2025	Assets Section Manager	<p>Changed gutter to guttering in the title and throughout policy.</p> <p>3.2 – remove – that benefit directly from these facilities.</p> <p>3.5 – remove – process reviewed by Council.</p> <p>3.6 – add – as denoted in the Roads Act.</p> <p>3.8 - Added Local Government Act 1993.</p> <p>3.9 – updated to reflect current directorate details.</p> <p>3.10 d) – removed aged pensioners and added resident or rate payers, added or waive, any contributions or apply for financial assistance.</p> <p>3.11 – List of Land zoning updated to current.</p> <p>4.1 – add – wording to Kerb and Guttering definition.</p> <p>7 – updated to reflect owners of document.</p> <p>7.4 – Added Local Government Act 1993.</p> <p>Amended review timeframe to 4 years in accordance with Council's policy and management directive review process.</p>	010