



## Policy

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### 40

## CONTRIBUTORY FOOTPATH AND KERB AND GUTTER SCHEMES

Strategic Outcome:	Sustainable natural and built landscapes
Policy type	Statutory
Date of Adoption:	15 June 2022 <span style="float: right;">Minute Number: 160</span>
Date for Review:	17 June 2026
Responsible Officer:	Director Infrastructure
Document Control:	Replaces the Contributory Footpath and Kerb and Gutter Schemes Policy adopted on 17 May 2017
Delivery Program Link:	<i>1.3.1 Coordinate flood levee, Council road network and storm water asset management and planning</i>

### 1. POLICY STATEMENT

The infrastructure in our towns (roads, footpaths and kerb and gutters etc.) are essential for the wellbeing of our community but are often unnoticed essential infrastructure. Providing these facilities comes at a cost to the community.

Generally, these items are provided by the initial developer of the land. The cost of providing this infrastructure is then built into the price of the developed blocks. Hence, each property owner has contributed to the cost of the infrastructure outside his or her land.

Community expectations regarding infrastructure change over time. For example, most new urban sub-divisions now include kerb and gutter as standard – an item that older sub-divisions often do not have.

As our towns grow, it becomes important to link up this community infrastructure to allow the footpath and kerb and gutter network to work as it should. Installation of kerb and gutter and footpaths to fill in the “gaps” created by older sub-divisions thereby becomes necessary.

The cost of providing this infrastructure in newer sub-divisions has been borne by the property owners as outlined above, it is fair property owners in older areas contribute to the cost of new kerb and gutter and footpaths installed adjacent to their land.



## Policy

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The NSW government recognises this, and the *Roads Act 1993* allows for Councils to recover up to half the cost of providing infrastructure like kerb and gutter and footpaths from the adjacent landowners via a contributory charge.

All property owners are required to contribute to the cost of infrastructure passing their property, either through the initial cost of purchase or via a later contribution. The Council considers that its Half-Cost Scheme provides a simple and fair method of allocating and recovering the contribution to new infrastructure

### 2. PURPOSE

This Policy is intended as a procedural guide for the creation and implementation of all contributory projects for the construction of footpaths and kerb and gutter under the *Roads Act 1993* and as a guide for the equitable distribution of costs between Council and owners of abutting properties.

### 3. SCOPE

This policy applies to all property within Berrigan Shire.

### 4. OBJECTIVE

This policy is developed to assist the Council with the Delivery Program Objective:

*1.3.1 Coordinate flood levee, Council road network and storm water asset management and planning*

### 5. DEFINITIONS

**Affected property:** A property with a boundary adjacent to the proposed works;

**Front boundary:** The boundary providing the main access to the affected property. In the case of dispute where a property has access across multiple boundaries, the shortest boundary will be deemed as the front boundary

**Responsible Officer:** The staff member appointed by the Chief Executive Officer with the responsibility for the administration of contributory footpath and kerb and gutter schemes as per this policy

### 6. POLICY IMPLEMENTATION

#### 6.1 General principles

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## Policy

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The Council recognises that often the main beneficiaries of a particular contributory scheme are not necessarily the adjacent property owners. However, there is often a strong community interest in ensuring footpath and kerb and gutter networks are linked and effective.

In implementing this policy, the Council will balance the needs of the Berrigan Shire community as a whole with the interests of affected landholders

### **6.2 How projects are identified**

The Council will identify potential projects for contributory schemes as part of its Integrated Planning and Reporting suite of Asset Management Plans, in particular in its:

- Pedestrian Access Management Plan (PAMP), and
- Stormwater Drainage Asset Management Plan

These plans, developed in consultation with the public, will identify specific projects that are suitable to be funded via a contributory scheme.

Identified projects will then be included in the Council's Capital Works Program and Operational Plan and budget. Projects will be prioritised on the basis of risk, need and available funding

Alternatively, potential projects may be identified by the Council following requests from landholders and/or other members of the community.

### **6.3 How the Council will consult**

#### **6.3.1 Preliminary consultation**

Following inclusion of a prospective scheme in the Council's Capital Works Program, the Council will advise landholders about the scheme in writing.

The information provided to landholders will include:

- preliminary estimates for the total cost of the works,
- method of apportionment of the cost,
- the estimated cost to owner,
- details of payment options in line with this policy, and
- a method to respond to the Council, regarding their support or otherwise for the plan

Landholders will have fourteen (14) days to provide a response to the Council.



## Policy

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### 6.3.2 Site meeting

Landholders may also request a site meeting to clarify issues raised in their response. Based on the responses, the Responsible Officer will determine if a site meeting is required

If a site meeting is held all affected landholders will be invited to attend. The Council's representatives will include at a minimum, one staff member and one Councillor. A record of the meeting will be taken.

### 6.3.3 Initial report

The Responsible Officer shall prepare a preliminary report to a subsequent Council meeting addressing the following where appropriate:

- background information detailing the reason for canvassing potential contributors;
- a statistical analysis of results of responses and an assessment of their substance;
- the need for the scheme considering the Council's Integrated Plans
- the likely beneficiaries of the scheme;
- options for the scope, staging and funding of the scheme;
- the preliminary estimate and the basis for apportionment;
- recommendation to the Committee for Council to either proceed with the scheme or not to proceed; and
- ongoing arrangements or liabilities for maintenance and/or reconstruction in the future.

Based on this report, the Council will decide whether to proceed with formal development of the scheme.

### 6.3.4 Final report and notice

Following Council's resolution to proceed with the Scheme, the final design, estimates and apportionment of costs shall be prepared by the Responsible Officer. Where the cost and/or scope of the project significantly changes from the initial estimate, the Responsible Officer will ensure landholders are advised.

The finalised scheme will be presented to a subsequent Council meeting for adoption.

After adoption by Council, all affected landholders will be given formal notice of their requirement to contribute, in accordance with all legislative requirements.

The notice shall:

- contain an outline of the proposed scheme; and
- set out the method of calculation of the estimated contribution.

In addition to the above legislative requirements the notice sent shall include:

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## Policy

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- the name of a Council officer for contact regarding individual enquiries;
- proposed timing for works to be carried out; and
- further advice of Council's policy regarding payment options

### **6.4 How the Council will charge landholders**

#### 6.4.1 Allocation of costs

Contributions by landholders to the cost of eligible works under a contributory scheme will be determined on the following basis.

- The total cost of the works will be proportionately allocated across each affected property on the basis of the length of the property boundary adjacent to the works.
- Each property where the front boundary is adjacent to the works will be charged 50% of the cost allocated to the property
- Where a boundary other than the front boundary is adjacent to the works, the property will be charged 25% of the cost allocated to the property.

The Council may choose to allocate an amount less than the total cost to one or more of the affected properties. This may occur where technical issues associated with the site raise the cost of the works significantly above the normal costs incurred.

If a property has already contributed to the existing footpath and/or kerb and gutter works associated with a particular proposal, it will not be required to make a further contribution.

#### 6.4.2 Invoicing

Once the project is complete, the Responsible Officer is authorised by the Council to arrange for invoices to be drawn up and sent to landholders based on this policy

Where the final cost is greater than 10% above the estimated cost, the Responsible Officer must seek Council approval via resolution before issuing invoices. The Council will have the discretion to charge an amount less than the actual cost, should it choose to do so.

### **6.5 How the Council will charge landholders**

#### 6.5.1 Charge against the land

As per legislation, the contribution will be recorded as a charge on each affected property as per unpaid rates under the *Local Government Act 1993*.

The amount of the contribution owing for the property will be included on notices provided under s603 of the *Local Government Act*.



## Policy

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### 6.5.2 Payment and collection

Affected landholders will have two options to pay the contribution owing.

- Payment in full within 30 days of the invoice being issued; or
- A repayment program over a three-year period

The repayment program will require landholders to enter into a formal agreement with the Council setting out the terms of the repayment. This agreement will require payment in full by the landholder by the due date as set on in the agreement.

Where a contribution debt is not repaid in line with the terms outlined in this policy and in the agreement, the Council will charge penalty interest at the maximum rate permitted for outstanding rates and charges by the Office of Local Government. The penalty interest charged will be backdated to the to date the invoice was initially issued.

The Council will collect outstanding contribution debt in line with established debt collection procedures. Landholders may make application for consideration under the Council's Financial Hardship Policy.

## 7. RELATED LEGISLATION, POLICIES AND STRATEGIES

### 7.1 Legislation

- *Local Government Act 1993*
- *Roads Act 1993*
- *Privacy and Personal Information Act 1998*

### 7.2 Council policies and guidelines

- Governance Policy
- Code of Conduct
- Pedestrian Access Management Plan
- Stormwater Drainage Asset Management Plan
- User Fees and Charges Policy
- Collection Policy
- Financial Hardship Policy

## 8. RECORDS MANAGEMENT

All Records must be kept in accordance with Council's Records Management Policy (currently under development) and destroyed as per the General Retention and Disposal Authority: Local Government Records (GA39).

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## Policy

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### 9. REVIEW AND EVALUATION

This policy (procedure) will be evaluated and reviewed at least once every four (4) years as per Council's Governance Policy (currently under development) or as required.

### 10. DOCUMENT AVAILABILITY

A number of legislative instruments require Councils to have the policy available for inspection at Council's principal office (i.e. Policies made under Part 3, of the Local Government Act 1993). Each document should therefore state the ways in which the policy is available including any relevant fees and charges for access to such policy. An example of the required statement is provided below:

This policy will be available for inspection at Council's principal office during ordinary business hours as per the requirements of section 18 (c) of the *Government Information (Public Access) Act 2009* and section 167 of the *Local Government Act 1993*.

Access to the policy in digital format is free and is available on Council's website <https://www.berriganshire.nsw.gov.au/>

Printed copies of the document are available at Council's principal office (address noted below) and are subject to Council's Fees and Charges.

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### 11. VERSION CONTROL

Version Number	Date	Summary	Responsible Officer
1.0	17.05.2017	New Policy document	Director Technical Services
2.0		Minor review (detail)	Director Corporate Services

### APPENDICES

Nil