



# **Section 94 Contributions Plan**

*Revised Draft Amendment No.94*

Berry Town Centre Car Parking

**01CARP0002**

Reference: 35185

Adopted by Council: XXXX  
Effective from: XXXX

---

Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541  
telephone (02) 4429 3111  
facsimile (02) 4422 1816  
e-mail [planning@shoalhaven.nsw.gov.au](mailto:planning@shoalhaven.nsw.gov.au)  
internet [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au)

---

**Disclaimer**

Every effort has been made to provide accurate and complete information. However, Shoalhaven City Council assumes no responsibility for any direct, indirect, incidental, or consequential damages arising from the use of information in this document.

**Copyright Notice**

No part of this publication may be reproduced in any form, or stored in a database or retrieval system, or transmitted or distributed in any form by any means, electronic, mechanical photocopying, recording, or otherwise without written permission from Shoalhaven City Council. All rights reserved.

Copyright © 2008, Shoalhaven City Council

# TABLE OF CONTENTS

1. Introduction .....	1
2. Definitions .....	1
3. Name of the Plan .....	1
4. Legal context .....	1
5. Purpose of the Plan .....	2
6. Commencement of the Plan .....	2
7. Relationship with Other Plans and Policies.....	2
8. Project Location .....	2
9. Area to Which the Plan Applies .....	2
10. Assessment of Demand .....	3
11. Estimated Cost of Facility.....	4
12. Construction Schedule .....	6
13. Apportionment of Costs.....	6
14. Contributions Formula.....	6
15. Contribution Rate .....	6
16. Review of Contribution Rates.....	7
17. Payment of Contributions.....	7
17.1 Method and Timing of Payment.....	7
17.2 Construction Certificates and the Obligation of Accredited Certifiers.	7
17.3 Complying Development and the Obligation of Accredited Certifiers.	7
17.4 Adjustment of Contributions at the Time of Payment.....	8
17.5 Deferral of Payment.....	8
17.6 Transitional Arrangements.....	9
17.7 Exemptions and Discounts .....	9
17.8 Works In Kind and Other Material Public Benefits .....	9
17.9 Land Dedication.....	9
18. References.....	10
19. Appendices .....	10
APPENDIX A .....	11
APPENDIX B .....	13
APPENDIX C .....	14
APPENDIX D .....	15

## **1. Introduction**

The majority of Berry Town Centre is zoned 3(a) Business “A” (Retail) and 3(f) Business “F” (Village) under the Shoalhaven Local Environmental Plan 1985. The objective of this zoning is to allow for retail, commercial and business activities. Such activities generate the demand for car parking, which is best located in public car parks where parking and traffic issues can be addressed in a coordinated and efficient manner whilst reducing the impact on prime retail sites. These facilities can also be utilised for servicing businesses, thereby removing service vehicles from Queen Street (Princes Highway).

The current contributions plan for car parking at Berry has not been updated since its adoption in 1993. Since that time, Council has developed a large number of the car parking spaces that were provided for in the 1993 plan, and has been considering alternative locations for additional parking areas. A number of changes to Development Control Plan 49 (DCP 49) have been adopted by way of DCP 49 Amendment 5 (DCP 49.5), which includes improved servicing of businesses fronting Queen Street (Princes Highway) and alters the development potential of the Town Centre. Council has also considered a number of development applications which affect car parking demand and supply. Council is updating the contributions plan to reflect these circumstances.

This plan continues Council’s authority to require developer contributions toward the cost of public car parking and associated service access as conditions of development consent for future retail and commercial development within the designated contributions area, identifies additional locations for parking areas and amends the amount of the contribution per space.

## **2. Definitions**

The definitions of terms used in this plan are listed in Appendix A.

## **3. Name of the Plan**

This Contributions Plan is Amendment number 94 (Berry Town Centre Car Parking) of the Shoalhaven City Council Section 94 Contributions Plan 1993. This project is identified in the Contributions Plan as project number 01 CARP 0002.

## **4. Legal context**

This Contributions Plan amendment has been prepared by Shoalhaven City Council pursuant to Section 94 of the Environmental Planning and Assessment Act and in accordance with the Environmental Planning and Assessment Regulation.

## **5. Purpose of the Plan**

The purpose of this Plan is to:

- a) Ensure that the demand for public car parking arising from future development in Berry Town Centre is met;
- b) Ensure the timely provision of these facilities;
- c) Authorise Council to require contributions toward the cost of the proposed car parking facilities, as a condition of development consent; and
- d) Provide a framework for administration and management of this plan.

## **6. Commencement of the Plan**

This Plan will take effect from XXXX.

## **7. Relationship with Other Plans and Policies**

This Contributions Plan is Amendment number 94 of the Shoalhaven City Council Section 94 Contributions Plan 1993. This Plan is a supplement to Council's **Cityplan**, Management Plan, Development Control Plan No.49 (Amendment No. 5), Development Control Plan No.18 (Car Parking Code) and Local Environmental Plan.

## **8. Project Location**

The works included in this plan are shown in the Locality Map in Appendix B and are consistent with DCP 49.5 (extract contained in Appendix D).

## **9. Area to Which the Plan Applies**

The Contribution Area for this project includes all land zoned 3(a) and 3(f) in Berry Town Centre, as shown in the Contributions Area Map in Appendix C.

Development on land within the Contributions Area is expected to make a contribution to car parking, where it is undesirable to require parking to be provided on site. Redevelopment on land within the Contributions Area is expected to make contributions for car parking demand to the extent that future demand exceeds existing demand. Development on land outside the Contributions Area is expected to provide all parking on site and is not required to make contributions.

## 10. Assessment of Demand

### *Car Parking Standard*

DCP 18 (Car Parking Code) applies to commercial development and this has been applied as the standard for the quantity of car parking spaces that will be the subject of contributions.

### *Existing parking supply and demand*

An analysis of existing supply and demand for car parking has been carried out through ground surveys in August 2006. On-street and off-street parking facilities were counted, as summarised in Table 1.

**Table 1**  
**Existing parking supply, Berry**

<b>Parking supply</b>	<b>No. spaces</b>
Private On-Site Parking	174
Public On-Street Parking	297
Public Off-Street Parking	65
<b>Total</b>	<b>536</b>

The current gross floor area used for retail and non-retail commercial land uses was also estimated. By referring to DCP No.18, the number of spaces required for the current land uses in Berry Town Centre was calculated, as summarised in Table 2.

**Table 2**  
**Existing parking demand according to DCP 18, Berry**

<b>Existing land use</b>	<b>Area (m<sup>2</sup>)</b>	<b>Car parking demand by DCP 18</b>
Commercial floor space	1,239	52
Hotels/Clubs	1,320	55
Outdoor eating areas	251	11
Retail - Shops	9,158	286
Retail - Supermarkets	305	12
Retail – Storage (25% of shops/supermarket area)	N/A	47
Service Stations	250	12
Tourist accommodation	1,340	35
<b>Total</b>	<b>13,863</b>	<b>511</b>

It is concluded that a surplus of 25 spaces has been provided in advance of future development.

### ***Estimated Future Parking Demand***

Future car parking requirements for Berry Town Centre have been estimated by applying DCP 18 to floor space projections from DCP 49 and land zoning and are summarised in Table 3.

**Table 3**  
***Estimated additional parking demand, Berry***

Projected additional floor space	Area (m <sup>2</sup> )	Car parking demand by DCP 18
Residential units (@ 1.5 spaces per unit)	2 units	3
Commercial floorspace	1,048	44
Hotels/Clubs	126	25
Outdoor eating areas	103	16
Retail	3,548	118
Retail – storage (25% of shops/supermarket area)	N/A	16
Parking needed to replace spaces lost due to development		7
<b>Total</b>		<b>229</b>

At the Council Meeting held 18 December 2007, Council resolved (MIN07.1807) in relation to DA04/3834 (Berry Hotel site) that 21 car parking spaces be provided on site and 6 car parking spaces be paid by way of section 94 Contributions. Should this application be acted upon:

- Demand will be reduced to 208 spaces; and
- There will be a shortfall of 37 spaces, which will be made up by utilising the 25 spaces provided by Council in advance of development and by Council constructing angle parking on the north side of Princess Street between Albany Street and Alexandra Street, where an additional 17 spaces can be provided in accordance with the draft Princess Street Reserve Landscape Masterplan. This will retain a surplus of 5 spaces to existing demand.

## **11. Estimated Cost of Facility**

### *Scope of Works*

This Plan provides for the following works, as shown on the Locality Map in Appendix B:

- A. Provision of 20 spaces and part of a proposed service lane on Lot 1 DP 209665 and the right of way over Lot 1 DP 578257 in Princess Street at the rear of Berry Hotel;

- B. Construction of a new service lane connecting the existing off-street car park and the new car park affecting Lot 1011 DP 872963, Lot 1 DP 1038574 and Lot 2 DP 209665;
- C. Reinforcement of the existing off-street car park in Princess Street to a five tonne standard;
- D. An additional 42 spaces to be provided on Lot 19 & 20 Sec 9 DP 8058 and Lot 1 DP 1022516;
- E. Provision of up to 17 additional spaces on Princess Street as shown in the draft Princess Street Reserve Landscape Masterplan; and
- F. Up to 141 spaces on land not yet identified, with options to be further considered when the preferred route option for the Gerringong to Bomaderry Princes Highway Upgrade has been adopted by RTA.

An extract from DCP 49 (draft Amendment No.5), which provides details of the service lane and adjoining car parking proposed for Berry Town Centre, is included in Appendix D.

*Land Costs*

The value of land to be acquired for the purpose of providing car parking facilities in Berry has been determined by independent valuation.

*Estimated Costs*

Estimated costs are summarised in Table 4.

**Table 4**  
**01 CARP 0002 - Estimated Cost Summary**

Description	Estimated Cost
Items A, B & C. Princess St - 20 Spaces and Service Road (as per DCP 49.5)	
Construction Cost	\$155,065
Administrative Cost	\$33,339
Land Cost	\$770,127
<b>Sub-total</b>	<b>\$958,531</b>
Item D. 61 Princess St. & 15 Alexandra Street - 42 Spaces	
Construction Cost	\$132,461
Administrative Cost	\$28,479
Land Cost	\$1,132,750
<b>Sub-total</b>	<b>\$1,293,690</b>



Item E. Princess St - Draft Landscape Masterplan - 41 Spaces (90 degree parking to replace existing parallel parking to create 17 new spaces)	
Construction Cost	\$132,095
Administrative Cost	\$28,400
Land Cost	\$0
Sub-total	<b>\$160,495</b>
141 spaces needed on land not yet identified to make up parking shortfall based on typical land and construction costs @ \$27,360 per space	<b>\$3,857,760</b>
<b>Total Cost</b>	<b>\$6,270,476</b>

## 12. Construction Schedule

Construction of the facility is anticipated for 2008 - 2013. This is considered consistent with the expected rate of development. It is likely that the works will be constructed in stages, depending on the actual rate of development, amount of developer contributions received and competing priorities in Council's works program. Clause 17.8 of this Plan provides for construction of the works, or stages of the works, in advance of Council's works program under certain circumstances.

## 13. Apportionment of Costs

Future car parking requirements for Berry Town Centre have been calculated by applying DCP18 Car Parking Code to floor space estimates based on Development Control Plan No.49 and land zoning. The demand for additional car parking is attributable to future development and is therefore apportioned 100% to future development.

## 14. Contributions Formula

Contribution Rate (\$ per parking space) = Estimated Cost (\$) ÷ No. of spaces

## 15. Contribution Rate

In accordance with the formula in Clause 14, the following contribution rate is calculated:

**Table 5**  
**Contribution Rate Calculation**

Estimated cost	No of spaces	Contribution rate
\$6,270,476	208	\$30,147 per space

The number of car parking spaces required by a development will be assessed under the terms of DCP 18 at the time of development application.

## **16. Review of Contribution Rates**

The above contributions will be adjusted annually on 1<sup>st</sup> July in line with movements in the Implicit Price Deflator (New Engineering & Construction) published by the Australian Bureau of Statistics.

## **17. Payment of Contributions**

The contribution is expected for all commercial and retail development in the designated Contribution Area. Credit for existing land use is determined at the time of development application.

### ***17.1 Method and Timing of Payment***

Payment of contributions can be by cash, money order or bank cheque. Payment will be required prior to the issuing of the linen plan in the case of subdivisions, or before the issue of a construction certificate in the case of a building development.

### ***17.2 Construction Certificates and the Obligation of Accredited Certifiers***

In accordance with section 94EC of the *EP&A Act* and Clause 146 of the *EP&A 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 monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) 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 *EP&A Regulation*. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by the council. In such cases, council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

### ***17.3 Complying Development and the Obligation of Accredited Certifiers***

In accordance with s94EC(1) of the *EP&A Act*, accredited certifiers must impose a condition requiring monetary contributions in accordance with this development contributions plan for residential development of all types.

The conditions imposed must be consistent with Council's standard section 94 consent conditions and be strictly in accordance with this development contributions plan. It is the professional responsibility of accredited certifiers to accurately calculate the contribution and to apply the section 94 condition correctly.

#### **17.4 Adjustment of Contributions at the Time of Payment**

If payment is not made in the financial year that consent is granted, the amount payable will be adjusted on 1<sup>st</sup> July in line with movements in the Implicit Price Deflator (New Engineering & Construction) published by the Australian Bureau of Statistics, and according to the following formula:

$$CRc = CRp \times IPDc \div IPDp$$

where

CRc = contribution rate for the current year

CRp = contribution rate for the previous financial year

IPDc = implicit price deflator index for current year

IPDp = implicit price deflator index for previous financial year

#### **17.5 Deferral of Payment**

In exceptional circumstances, Council may permit deferred payment. The maximum deferral is normally two years from the standard payment date.

For tenants and businesses operating within Shoalhaven Local Government Area, Council may also consider payment by instalments over a 5 year period where special circumstances apply.

For deferred payment and payment by instalments, the following conditions apply:

- Requests for deferred payment and payment by instalments are to be made by application to Council, explaining the nature of the exceptional or special circumstances, and will be determined at Council's discretion;
- Such requests will not be considered when the works project to which the contribution is to be applied is essential infrastructure or relates to public safety or health, or the amount of the contribution is less than \$5,000;
- Such payment will be subject to interest charges equivalent to that applied to overdue rates and an administration charge equivalent to the bank guarantee lodgement fee for subdivision related matters, as listed in Council's Fees & Charges;
- The full amount of the contribution plus interest charges is to be secured by the bank guarantee; and

- The administration charge is to be paid at the time of lodgement of the bank guarantee.

### **17.6 Transitional Arrangements**

A subdivision or development application which has been submitted prior to the adoption of this Plan but not determined shall be determined in accordance with the provisions of this Plan if this Plan is effective at the date the application is determined.

### **17.7 Exemptions and Discounts**

Council does not allow standard exemptions or discounts for contributions in this Plan.

### **17.8 Works In Kind and Other Material Public Benefits**

Council will consider the construction or provision of facilities, services or infrastructure by an Applicant to offset a monetary contribution. If construction of a facility is requested by an Applicant in advance of its inclusion in Council's works schedule, Council will consider options including:

- Provision of the facility by the Applicant by way of Work In Kind or other Material Public Benefit in lieu of a monetary contribution;
- Provision of the facility at the Applicant's expense, with Council recouping contributions from future development in the Contribution Area and reimbursing those to the Applicant for costs exceeding the Applicant's share, up to the total projected cost of the Plan; and
- Provision of the facility at the Applicant's expense, with Council reimbursing the Applicant for Council's stated share of the costs when such funds become allocated in the budget.

The applicant will need to initiate an acceptable option by providing Council with the full details of the proposed works prior to construction. Council will then consider the request and advise the Applicant accordingly as part of a negotiated agreement. Works In Kind and other Material Public Benefits are subject to Council approval, and will be expected to comply with the requirements of the relevant Development Control Plan, this Contribution Plan amendment and relevant construction standards.

### **17.9 Land Dedication**

Council may permit the dedication of land to offset a monetary contribution. Suitability assessment of the subject land occurs at the development or subdivision application stage.

## 18. References

- Environmental Planning & Assessment Act
- Environmental Planning & Assessment Regulation
- Shoalhaven City Council Contributions Plan Manual
- NSW Department of Infrastructure, Planning & Natural Resources: Development Contributions Practice Notes, July 2005
- Shoalhaven City Council Development Control Plan No. 18 – Car Parking Code
- Shoalhaven City Council Development Control Plan No.49 amendment No.5
- Draft Princess Street Reserve Landscape Masterplan

## 19. Appendices

- A Definitions
- B Locality Map
- C Contribution Area Map
- D Extract from DCP 49.5

Section 94 Contributions Plan Draft Amendment No.94, *Berry Car Parking*, being this written Statement and accompanying maps, was

Adopted by Council: XXXX

and

Became effective from: XXXX



R D Pigg  
General Manager

Date: 23 - 4 - 08

## **APPENDIX A**

### ***Definitions***

The following definitions apply to terminology used in this Plan:

#### *Anticipated Development*

An estimate of the number of new dwellings to be built.

#### *Apportionment*

The % of the total cost of a project to be borne by existing residents compared to the % of the total cost to be borne by anticipated development.

#### *Contributions Plan*

A formal document prepared by Council as required under the EP&A Act, to explain how developer contributions are calculated and spent, and a number of administrative details.

#### *Contribution rate*

The amount to be paid as a development contribution, expressed per unit of development.

#### *Deferral*

Payment of Section 94 contributions may be deferred until after the standard date of payment, subject to exceptional circumstances and specific approval from Council.

#### *Development Consent*

Formal approval by Council before a development can proceed; s94 contributions are stated as one of the conditions of development consent.

#### *Development Contribution*

An amount of money Council is entitled to collect toward the cost of infrastructure arising from new development.

#### *Development Control Plan (DCP)*

Detailed guideline that illustrates the controls that apply to a particular type of development or in a particular area. A DCP refines or supplements a regional environmental plan (REP) or local environmental plan (LEP) and is made according to the EP&A Act 1979.

#### *Dwelling*

A building used as a separate domicile.

#### *Equivalent Tenement (ET)*

A unit of measure, based on the number of bedrooms for a residential development, to determine the relative impact of a development compared to a single detached dwelling.

*Implicit Price Deflator (IPD)*

A standard measure of price movements published by the Australian Bureau of Statistics. Council uses the IPD for New Engineering and Construction to best reflect changes in the cost of works.

*Material Public Benefit*

A contribution by a developer that is not in the form of a monetary contribution or land dedication.

*Medium Density Development*

Residential development consisting of flats, villa units, cluster housing, mobile housing estates or caravan parks.

*Nexus*

The specific relationship between expected development and the demand it creates for additional infrastructure or facilities.

*Patronage Factor*

An estimate of how much use of a facility will be generated from a particular area or group.

*Residential Development*

Development for the construction of dwellings.

*Transitional Arrangements*

A procedure that is applied whilst a contributions plan is in preparation.

*Works In Kind*

A type of material public benefit where construction of some or all of the works contained in a contributions plan is by the developer.

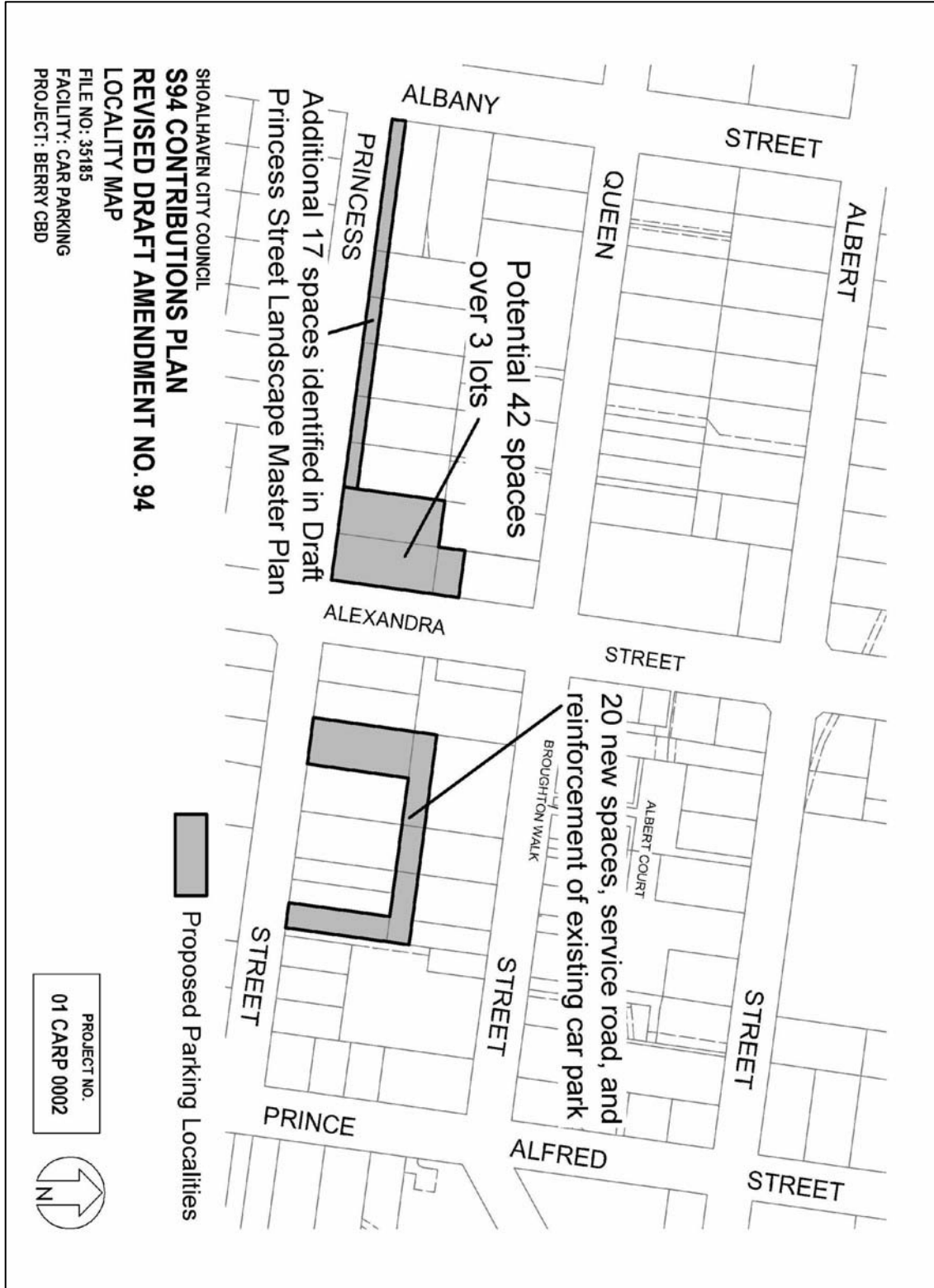
*Works Program*

A list of the works to be undertaken by Council.

*Works Schedule*

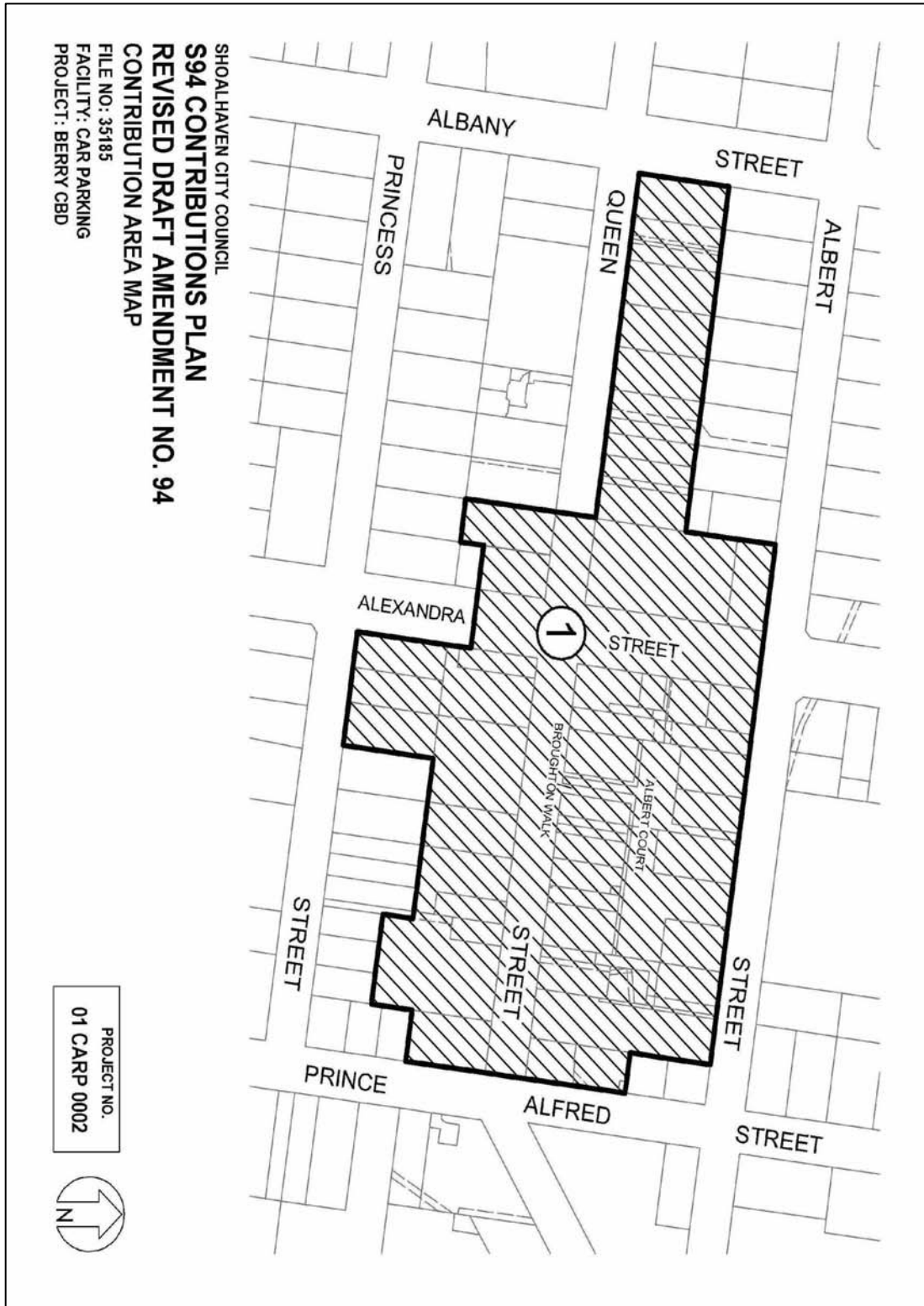
A list stating when Council expects the works in the works program to be undertaken.

## APPENDIX B Locality Map





**APPENDIX C**  
**Contributions Area Map**



**APPENDIX D**

***Extract from DCP 49.5***

