

# Narrabri Shire Section 7.12 - Fixed Development Consent Levies Contributions Plan 2011



**NARRABRI SHIRE**  
DISCOVER THE POTENTIAL

## Narrabri Shire

### Section 7.12 Fixed Development Consent Levies Contributions Plan 2011

#### Document history and status

This document was originally prepared by Hill PDA (Job Ref No: C11092).

Amendments since have been made by Narrabri Shire Council.

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## 1. Introduction

### 1.1 Legislative Context

Section 7.12 - Fixed Development Consent Levies, of the Environmental Planning and Assessment Act 1979 provides as follows:

- (1) A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.
- (2) A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11.
- (2A) A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:
  - (a) the Minister, or
  - (b) a development corporation designated by the Minister to give approvals under this subsection.
- (3) Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.
- (4) A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.
- (5) The regulations may make provision for or with respect to levies under this section, including:
  - (a) the means by which the proposed cost of carrying out development is to be estimated or determined, and
  - (b) the maximum percentage of a levy.

### 1.2 The Purpose of the Plan

In accordance with the above this Section 7.12 Contributions Plan (the Plan) has been prepared by Narrabri Shire Council (from here on referred to as the Council) to:

- Authorise the imposition of a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979;
- require a certifying authority to impose, as a condition of issuing a complying development

certificate or a construction certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan;

- assist Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area; and
- To publicly identify the purposes for which the levies are required.

### 1.3 References and Definitions

In this plan, unless the context or subject matter otherwise indicates or requires the following definitions apply:

- **ABS** means the Australian Bureau of Statistics;
- **EP&A Act** means the Environmental Planning and Assessment Act 1979;
- **EP&A Regulation or Regulation** means the Environmental Planning and Assessment Regulation 2000;
- **Council** means Narrabri Shire Council;
- **Development contributions** means a development contribution required to be paid by a condition of development consent imposed pursuant to Section 7.12 of the Act;
- **Levy** means a levy under Section 7.12 of the Act authorised by this Plan; and
- **Public Facility** and **Public Infrastructure** means a public amenity or public service.

## 2. Summary Schedules

The following schedules are included in this plan:

1. Schedule of Works; and
2. Summary of Levies.

### 2.1 Schedule of Works

The detailed schedule of works is provided at Appendix 2 and identifies the public facilities for which Section 7.12 levies will be required together with a summary of the anticipated expenditure on the respective items and priority for delivery.

### 2.2 Summary of the Levies

Levies paid to Council under this Plan will be applied towards meeting the costs of provision, or augmentation, of new public facilities as summarised in the Schedule of Works.

The Plan will be reviewed on an annual basis to ensure income from the levy is able to match proposed expenditure.

**Table 1 - Summary of Section 7.12 Levies for Narrabri Shire**

Type of Development	Estimated Cost of Development	Levy (%)
Residential accommodation, commercial development, business and retail development, tourist and visitor accommodation, industrial and storage premises development, primary production, any project declared to be a project to which Part 3A of the EP & A Act applies, extractive industries, utility installations, subdivisions and all other forms of development not specifically exempted under this plan.	\$0 - \$100,000	Nil
	\$100,001 - \$200,000	0.5%
	More than \$200,000	1.0%

### **3. ADMINISTRATION OF THE PLAN**

#### **3.1 What is the Name of this Plan?**

This development contributions plan is called the Narrabri Shire Council Section 7.12 Fixed Development Consent Levies 2011.

#### **3.2 Application of this Plan**

This Plan applies to all land within the Narrabri Shire Local Government Area (LGA).

The Plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Environmental Planning and Assessment Act 1979 with respect to development on land to which this Plan applies.

In determining a development application, Council may impose a condition of consent requiring the payment of a levy, or dedication of land, in accordance with the provisions of this Plan.

The contribution rates for different types of development are provided in Table 1 (above).

#### **3.3 When does this Plan Commence?**

This plan came into effect when adopted by minute number 669/2011 at the Ordinary Council meeting conducted on the 18 October 2011.

## 4. OPERATION OF THE PLAN

### 4.1 Are There Any Exemptions to the Levy?

The levy will not be imposed in respect of development:

- where the proposed cost of carrying out the development is \$100,000 or less;
- for the purposes of disabled access;
- for the sole purpose of providing affordable housing;
- for the purpose of reducing consumption of mains supplied potable water, or reducing the energy consumption of a building;
- for the sole purpose of the adaptive reuse of an item of environmental heritage;
- Other than the subdivision of land, where a condition under section 7.11 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out;
- Seniors housing, as defined in the State Environmental Planning Policy (Seniors Living) 2004, which is undertaken by a social housing provider;
- School developments that are a Federal Building the Education Revolution Project; or
- Any other Ministerial Direction released following the adoption of this plan.

There are no additional exemptions at the time of commencement of this Plan, however, Council may consider exempting other categories of developments, or components of developments from the requirement for a levy, but only by resolution of Council.

Consideration will be given to requests for exemption for the following types of development:

- works undertaken for charitable purposes or by a registered charity (as defined by the ATO);
- places of worship;
- public infrastructure for or on behalf of the NSW Government including but not limited to hospitals, public transport, police and fire stations and education facilities;
- public community infrastructure such as but not limited to libraries, community facilities, child care facilities, recreational areas, recreational facilities or car parks;
- privately funded community infrastructure, such as but not limited to education facilities, universities, and private hospitals;
- industrial, retail or commercial development, where there is no increase in floor space within an existing building;
- the continued operation of a coal mine, where rail transport is used for the transportation of coal; or
- Demolition (where there is no replacement building or development).



For an exemption to be considered any such development will need to submit a written request making the case for exemption and including details of:

- Under which point in Section 4.1 of this Plan the exemption claimed is to be considered;
- The mechanism ensuring that such development will remain in the form proposed in the future (i.e. not to increase future demand on public amenities and services); and
- Other items if applicable such as: How the development will incorporate the maintenance of the item of heritage significance? How the development will contribute to the public benefit of the community? Works in the public domain included in the development? How the residents/users will utilise existing private facilities attached to the development that replicate those types provided by Council?

## **4.2 Pooling of Levies**

This Plan expressly authorises Section 7.12 levies be paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule (refer to Appendix 2).

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

In accordance with Clause 146 of the Environmental Planning and Assessment (EP&A) Regulation 2000, 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 levies has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to Council in accordance with Clause 142(2) of the 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.

#### 4.4 How will the Levy be Calculated?

The levy will be determined based on the rate as set out in the Summary Schedule (refer to Table 2).

The levy will be calculated as follows:

<b>Levy</b>	=	<b>%C</b>	x	<b>\$C</b>
Where:				
- %C is the levy rate applicable;				
- \$C is the proposed cost of carrying out the				

The proposed cost of carrying out the development will be determined in accordance with Clause 25J of the EP&A Regulations 2000. The procedure set out in Appendix 1 to this Plan must be followed to enable Council to determine the amount of the levy to be paid.

The value of the works must be provided by the applicant at the time of the request and if appropriate must be independently certified by a quantity surveyor, who is registered with the Australian Institute of Quantity Surveyors, or a person who can demonstrate equivalent qualifications.

Without limitation to the above, Council may review the valuation of works and may seek the services of an independent person to verify the costs. If the result of a review indicates the value of the works differ from that provided, Council may determine the value of the works to be applied as the basis for any levy payable.

Contribution amounts payable can be checked with Council by contacting (02) 6799 6866 during office hours.

#### 4.5 When is the Levy Payable?

A levy must be paid to Council at the time specified in the condition that imposes the levy. If no such time is specified, the levy must be paid prior to the issue of a construction certificate or complying development certificate.

#### 4.6 How will the Levy be Adjusted?

Contributions required as a condition of consent under the provisions of this Plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

**Contribution = \$Co + A at time of payment**

Where:

- \$ Co is the original contribution as set out in the consent; and

- A is the adjustment amount which is:

$\$Co \times \frac{([\text{Current Index}^5 - \text{Base Index}^6])}{[\text{Base Index}]}$

[Base Index]

**Note:** In the event that the Current Index is less than the Base Index the Current Index shall be taken as not less than the Base Index.

<sup>5</sup> Current Index (6401.0 - Consumer Price Index Australia) is the Consumer Price Index, Australia CPI: Groups, Weighted Average of Eight Capital Cities, Index Numbers and Percentage Changes as published for the last quarter by the Australian Bureau of Statistics available at the time of review of the contribution rate.

<sup>6</sup> Base Index (6401.0 - Consumer Price Index Australia) is Consumer Price Index, Australia CPI: Groups, Weighted Average of Eight Capital Cities, Index Numbers and Percentage Changes as published by the Australian Bureau of Statistics published at the date of adoption of this plan which is July 2011.

#### 4.7 Can Deferred or Periodic Payments be Made?

Deferred or periodic payments may be permitted in the following circumstances:

- When the 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
- In other circumstances considered reasonable by Council.

If Council agrees to accept deferred or periodic payment, Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance on condition that:

- the bank guarantee be for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security;
- 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;
- 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;
- 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; and

- Where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

#### 4.8 Accountability

Financial management and accountability are important components of a Section 7.12 Development Contributions Plan. Council is responsible for the maintenance of an accurate and up to date register of all contributions. Monetary contributions received under this Plan are kept in a separate account specifically for this plan. Accounting records show the contributions received and expended, including any interest earned on invested funds for each account. These records are updated on a monthly basis.

Separate accounting records are maintained for all Council's Contributions Plans. Information on Section 7.12 accounts and funds relating to this Plan will be provided in a condensed format within Narrabri Shire Council's Annual Reports in accordance with the requirements of the EP&A Regulations 2000. Information is also available from Council's contribution register relating to this Plan, which can be inspected at Council during ordinary office hours.

#### 4.9 Offer to Enter into a Voluntary Planning Agreement

An applicant may offer to enter into a voluntary planning agreement (VPA) with Council under Section 7.4 of the EP&A Act in connection with the making of a development application, rather than pay a contribution in relation to a development. Under the planning agreement, the applicant may offer to:

- pay money;
- dedicate land;
- carry out works; or
- provide other material public benefits for public purposes.

The applicant's provision under a VPA may be additional to, or instead of, paying a contribution in accordance with a condition of development consent authorised by this Plan. This will be a matter for negotiation with Council. An approach should be made to Council at an early stage in the project, prior to lodgement of any development application, to finalise any negotiations required to avoid delays as part of the development assessment process. The offer to enter into the VPA together with a copy of the draft agreement should accompany the relevant development application.

Council will publicly notify the draft VPA and an explanatory note relating to the draft agreement along with the development application and will consider the VPA as part of its assessment of that application. If Council agrees to enter into the VPA, it may impose a condition of development consent under Section 7.7(3) of the EP&A Act 1979 requiring the agreement to be entered into and performed.

If Council does not agree to enter into the VPA, it may grant consent subject to a condition authorised by this Plan requiring the payment of a contribution.

## Appendix 1 - PROCEDURE FOR COUNCIL TO DETERMINE THE LEVY AMOUNT

### Procedure

A cost summary report is required to be submitted to allow Council to determine the contribution that will be required. The following should be provided:

- Minor works that are demonstrated to comprise works less than \$50,000 in value do not require a cost report to be completed;
- A cost summary report must be completed for works with a value between \$50,000 and \$500,000 (refer to template over page); or
- A quantity surveyor's Detailed Cost Report must be completed by a registered quantity surveyor for works with a value greater than \$500,000 (refer to template over page).

To avoid doubt, Section 25J of the Environmental Planning and Assessment Regulation 2000 states that the proposed cost of carrying out development is to be determined by adding up all of the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:

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

The Regulation makes clear that the following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:

- the cost of the land on which the development is to be carried out;
- the costs of any repairs to any building or works on the land that are to be retained in connection with the development;
- the costs associated with marketing or financing the development (including interest on any loans);
- the costs associated with legal work carried out or to be carried out in connection with the development;
- project management costs associated with the development;
- the cost of building insurance in respect of the development;
- the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land);

- the costs of commercial stock inventory;
- any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law;
- the costs of enabling access by disabled persons in respect of the development;
- the costs of energy and water efficiency measures associated with the development;
- the cost of any development that is provided as affordable housing; and
- the costs of any development that is the adaptive reuse of a heritage item.

### Sample Cost Summary Report (Development Cost No Greater than \$500,000)

Council References		
Development Application No:		
Reference:		
Complying Development Certificate Application No:		
Construction Certificate No:	Date:	
Applicants Details		
Applicant's Name:	Applicant's Address:	
Development Details		
Development Name:	Development Address:	
Description of Development Cost	Cost Estimate (\$)	
Demolition and alterations		
Hydraulic services		
Structure		
Mechanical services		
External walls, windows and doors		
Fire services		
Internal walls, screens and doors		
Lift services		
Wall finishes		
External works		
Floor finishes		
External services		

Ceiling finishes	
Other related work	
Fittings and equipment	
<b>Sub-total</b>	

Sub-total above carried forward	
Preliminaries and margin	
<b>Sub-total</b>	
Consultant Fees	
Other related development costs	
<b>Sub-total</b>	
Goods and Services Tax	
<b>Total Development Cost</b>	

I certify that I have:

<ul style="list-style-type: none"> <li>▪ Inspected the plans the subject of the application for development consent or construction certificate.</li> <li>▪ Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.</li> <li>▪ Included GST in the calculation of development cost.</li> </ul>
Signed:
Name:
Position and Qualifications:
Date:

## Sample Cost Summary Report (Development Cost more than \$500,000)

This report must be completed by a Registered Quantity Surveyor (A member of the Australian Institute of Quantity Surveyors)

Council References		
Development Application No:		
Reference:		
Complying Development Certificate Application No:		
Construction Certificate No:	Date:	
Applicants Details		
Applicant's Name:	Applicant's Address:	
Development Details		
Development Name:		
Development Address:		
Gross Floor Area – Commercial		sqm
Gross Floor Area – Residential		sqm
Gross Floor Area – Retail		sqm
Gross Floor Area – Other		sqm
Gross Floor Area – Car Parking		sqm
<b>Total Gross Floor Area</b>		sqm
<b>Total Site Area</b>		sqm
Total Number of Car Parking Spaces		
<b>Total Development Cost</b>	\$	
<b>Total Construction Cost</b>	\$	
<b>Total GST</b>	\$	
Estimate Details:		
<b>Professional Fees</b>	\$	
% Of Development Cost		



% Of Construction Cost	
<b>Excavation</b>	\$
Cost per sqm of Site Area	\$
<b>Car Park</b>	\$
Cost per sqm of site area	\$
Cost Per Space	\$
<b>Demolition and Site Preparation</b>	\$
Cost per sqm of site area	\$
<b>Construction – Commercial</b>	\$
Cost per sqm of commercial area	\$
<b>Fit-Out – Commercial</b>	\$
Cost per sqm of commercial area	\$
<b>Construction – Residential</b>	\$
Cost per sqm of Residential area	\$
<b>Fit-Out – Residential</b>	\$
Cost per sqm of Residential area	\$
<b>Construction – Retail</b>	\$
Cost per sqm of Retail area	\$
<b>Fit-Out – Retail</b>	\$
Cost per sqm of Retail area	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate;
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors;
- calculated the development costs in accordance with the definition of development costs in the S7.12 Development Contributions Plan of the council of [insert] at current prices;
- included GST in the calculation of development cost; and
- Measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed:

Name:

Position and Qualifications:

Date:

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## Appendix 2 - SCHEDULE OF WORKS

### Fixed Development Consent Levies Contributions Plan Schedule of Works

Priority	Description
Low (L)	Capital Works prioritised and expected to be needed from 7 – 10 years
Medium (M)	Capital Works prioritised and expected to be needed from 3 – 7 years
High (H)	Capital Works prioritised and expected to be needed from 1 – 3 years

Item	Infrastructure	Location	Priority	Estimate (\$)
1 (7)	Communities Facilities Upgrade	Narrabri - Narrabri creek accessible jetty - All accessible concrete jetty next to boat ramp	H	90,000
2 (8)	Communities Facilities Upgrade	Narrabri - Gately field - Covered seating areas on the edge of field	H	45,000
3 (9)	Communities Facilities Upgrade	Narrabri - leash free park - Construct a leash free dog park	H	50,000
4 (11)	Communities Facilities Upgrade	Boggabri - Vickery Park Gym equipment - Two cover gym stations and connecting pathway	H	135,000* (re-costed)
5 (31)	Footpath	Killarney Street from Tibbereena Street to Barwan Street	H	51,000
6 (32)	Footpath	Barwan Street from Bowen Street to Denison Street	H	51,000
7 (33)	Footpath	Gibbons Street from Wandie Place to Existing Footpath	H	28,000
8 (34)	Footpath	Boheena Street Wukawa Street to Cooma Road	H	73,000
9 (35)	Footpath	Wee Waa Street from Brent Street to Caxton Street	H	64,000
10 (36)	Pools Boggabri	Pools - Boggabri Pool - Tables & Chairs for BBQ Area	H	5,000
11	Community Facilities Upgrades	Boggabri Vickery Park Renew Playground Equipment	M	80,000
12	Community Facilities Upgrades	Boggabri Jubilee Irrigation for Practice fields	M	150,000
13	Community Facilities Upgrades	Wee Waa Dangar Park Irrigation System	M	160,000
14	Shared Path	Wee Waa Dangar Shared Pathway	M	150,000
15	Community Facilities Upgrades	Wee Waa Tennis Courts Renewal, Picnic Area, Lighting, Fencing and all Access Pathway	M	300,000
16	Shared Path	Wee Waa Levee Shared Path Design	H	20,000
17	Community Facilities Upgrades	Pilliga Bore Projects from Master plan	M	80,000
18	Community Facilities Upgrades	Narrabri CBD Circular Seating Upgrade	M	330,000
19	Community Facilities Upgrades	Narrabri Skate Park	M	200,000

20	Community Facilities Upgrades	Splash Parks at each town (x3)	L	400,000 each
21	Community Facilities Upgrades	Narrabri Indoor Centre Masterplan	H	50,000
22	Community Facilities Upgrades	Narrabri Cooma Oval Canteen and toilet facilities Design	M	50,000
23	Community Facilities Upgrades	Accessibility Access at all Parks	M	200,000
24	New Community Facility	New Companion Animals Impound Facility	H	350,000

For the purposes of section 7.12 (3) of the Act, the cost of providing public amenities or public services is to be indexed annually (as specified in the relevant contributions plan) in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.