

# **DEVELOPMENT CONTRIBUTIONS PLAN 2014**

**SECTION 94A ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

## **GREATER HUME SHIRE COUNCIL**

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## 1. Administration and Operation of the Plan

### 1.1 What is the Name of this Development Contributions Plan?

This development contributions plan is called the *Greater Hume Shire Council S94A Levy Development Contributions Plan 2014* (the development contributions plan“).

### 1.2 Application of this Development Contributions Plan

The development contributions plan applies to all land within the local government area of Greater Hume.

### 1.3 When does this Development Contributions Plan Commence?

The development contributions plan commences on 29 November 2014.

### 1.4 The Purpose of this Contributions Plan

The primary purpose of the development contributions plan is:

- to authorise the imposition of a condition on all development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the *Environmental Planning and Assessment Act 1979* (EP&A Act);
- to assist the Greater Hume Shire Council (“council”) in providing the appropriate public facilities that are required to maintain and enhance amenity and service delivery within the Greater Hume local government area; and
- to publicly identify the purposes for which the levies are required.

### 1.5 When is the Levy Applicable?

The levy is applicable to applications for development consent and applications for

complying development certificates under Part 4 of the EP&A Act, except where exempt under Section 1.6 below.

The amount to be levied is:

0.5% of development cost where the proposed cost of carrying out the development is between \$100,001 and \$200,000.

1.0% of development cost where the proposed cost of carrying out the development is more than \$200,000.

### 1.6 Are there any Exemptions to the Levy?

Under Section 94E of the EP&A Act, the Minister for Planning has directed that a levy cannot be imposed in respect of development:

- where the proposed cost of carrying out the development is \$100,000 or less; or
- for the purpose of disabled access; or
- for the sole purpose of providing affordable housing; or
- for the purpose of reducing a building’s use of potable water (where supplied from water mains) or energy; or
- for the sole purpose of the adaptive reuse of an item of environmental heritage; or
- other than the subdivision of land, where a condition under section 94 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.

In addition, Council will not impose a levy in respect of development:

- for which Council considers by formal ratification at a full Council meeting as an exemption. For such claims to be considered, any such development will need to include a comprehensive submission arguing the case for exemption.

### 1.7 Relationship with Other Plans and Policies

In accordance with Clause 32(1) of the Environmental Planning and Assessment Regulation 2000 this is a subsequent plan to the *Greater Hume Shire Council S94A Levy Development Contributions Plan 2012 which amends that plan and replace that plan.*

The development contributions plan supplements the provisions of the *Greater Hume Local Environmental Plan 2012* and any amendment or local environmental plan which it may supersede.

### 1.8 Pooling of Levies

The development contribution plan expressly authorises money obtained from S94A levies paid for different purposes to be pooled and applied (progressively or otherwise) for the public facilities listed in the works program (Schedule 1) in accordance with the staging set out in that Schedule.

### 1.9 Construction Certificates and the Obligation of Accredited Certifiers

In accordance with clause 146 of the *Environmental Planning and Assessment Regulation 2000* ("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 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 the council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

### 1.10 Complying Development Certificates and the Obligations of Accredited Certifiers

In accordance with s94EC(1) of the EP&A Act, a certifying authority (Council or an accredited certifier) must impose a condition requiring monetary contributions in accordance with the development contributions plan which satisfies the following criteria:

- Pursuant to section 80A(1) of the EP&A Act and the development contributions plan, a levy calculated in accordance with Section 1.11 below.
- The amount to be paid is to be adjusted in accordance with Section 1.14 below.

### 1.11 How will the Levy be Calculated?

The levy will be calculated as follows:

$$\text{Levy payable} = L \times \$C$$

Where:

**L** is 0.005 where the cost of development is between \$100,001 and \$200,000 or 0.01 where the cost of development is more than \$200,000; and

**\$C** is the cost of carrying out the proposed development (calculated in accordance with Section 1.12 below).

### 1.12 How will the Cost of Carrying Out the Proposed Development be Calculated?

A development application or an application for complying development certificate must submit an estimated cost of development that has been calculated in accordance with clause 25J of the EP&A Regulation.

That clause provides as follows:

#### 25J Section 94A levy—determination of proposed cost of development

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be

incurred by the applicant in carrying out the development, including the following:

- (a) if 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,
  - (b) if 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,
  - (c) if 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.
- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.
- (3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:
- (a) the cost of the land on which the development is to be carried out,
  - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,
  - (c) the costs associated with marketing or financing the development (including interest on any 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 in respect of the development,
  - (g) 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),
  - (h) the costs of commercial stock inventory,
  - (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.
- (4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.
- (5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.

Without limitation to the above, Council may review the estimated cost of development and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant and no construction certificate will be issued until such time that the levy has been paid.

### 1.13 When is the Levy Payable?

A levy must be paid to council at the time specified in the condition on the development consent 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.

### 1.14 How will the Levy be Adjusted?

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

$$\text{Contribution at time of payment} = \$C_o + \$A$$

Where:

**\$C<sub>o</sub>** is the original contribution as set out in the consent condition; and

**\$A** is the adjustment amount which is:

$$\frac{\$C_o \times (\text{Current Index} - \text{Base Index})}{\text{Base Index}}$$

where:

the **Current Index** is the most recent quarterly Consumer Price Index for Sydney as published by the Australian Bureau of Statistics (Ref:6401.0) at the time the levy is paid; and

the **Base Index** is the quarterly Consumer Price Index for Sydney as published by the Australian Bureau of Statistics (Ref:6401.0) for the period immediately prior to the date of the development consent.

Note: In the event that the Current Index is less than the Base Index, the contribution payable shall be that stated in the consent condition.

### **1.15 Can Deferred or Periodic Payments Be Made?**

Council does not allow deferred or periodic payment of levies authorised by the development contributions plan.

## **2. Expected Development and Demand for Public Facilities**

The relationship between expected development and the demand for public facilities is established through:

- population growth in parts of the Shire;
- the future population will require the provision of additional public facilities; and
- the future population will diminish the existing population's enjoyment and standards of public facilities unless additional facilities are provided.

Council is committed to providing the equitable distribution of public facilities for the benefit and well-being of all residents. Council's works program (Schedule 1) identifies the public amenities or services to be provided, recouped, extended or augmented by contribution monies derived by this plan.

This development contributions plan applies to all land within the local government area of Greater Hume. The contributions levied will be applied towards meeting the cost of provision or augmentation of public facilities that have been or will be provided across the entire local government area in accordance with the works program (Schedule 1).

Department of Planning (DoP) Circular (Ref: PS 05-003) states there does not have to be a connection between the subject of the development consent levy and the object any monies derived are spent on, accordingly, monies derived by this plan may be used to embellish public

facilities in a location remote from that which the levy was derived (e.g. in another town).

Council may also levy contributions towards the provision of water and sewerage infrastructure. These contributions are levied under Section 64 of the *Local Government Act 1993* and therefore are not part of this Development contributions plan. Reference should be made to the separate contributions plan for levies towards water and sewer infrastructure.

## **3. Works Program**

The works program (Schedule 1) identifies the public facilities for which S94A levies under the EP&A Act will be required.

Levies paid to council under a condition authorised by the development contributions plan will be applied towards meeting the cost of provision or augmentation of public facilities that have been or will be provided. Schedule 1 provides a summary of public facilities, which have been or will be provided by council over the next five years, as well as the estimated cost of provision and timing.

## **4. References**

The following reference documents have been utilised in the preparation of this Section 94A Plan.

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2005*
- Department of Planning – Development Contributions Practice Notes – July 2005
- *Greater Hume Local Environmental Plan 2012*

## Dictionary

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

**EP&A Act** means the *Environmental Planning and Assessment Act 1979*

**Council** means Greater Hume Shire Council

**Development contributions plan** means *Greater Hume Shire Council S94A*

*Levy Development Contributions Plan 2012*

**levy** means a levy under s94A of the EP&A Act authorised by the development contributions plan

**public facility** means a public amenity or public service

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2000*

## Schedule 1 – Works Program

Public facilities to be funded/ embellished through S94A levies are listed in the following Schedule and their location identified on the associated map attached.

ITEM NO.	DESCRIPTION	ESTIMATED COST	ESTIMATED TIME FRAME	PRIORITY
<b>COMMUNITY FACILITIES</b>				
	Refurbishment of the Henty Swimming Pool Complex	\$1 200 000	2 years	High
	Disabled Facilities Swimming Pools	\$40 000	2 years	High
	Public Toilet Upgrades	\$50 000	5 years	Medium
	Henty Bicentennial Park- Entrance Seal	\$30 000	2 years	High
	Ian Geddes Bush Walk Bridge	\$120 000	5 years	Medium