

FEDERATION COUNCIL

DEVELOPMENT CONTRIBUTIONS PLAN

**Section 7.12
Environmental Planning & Assessment Act 1979**

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1. Administration & operation of the plan

1.1 What is the name of this development contributions plan?

This development contributions plan is called the *Federation Council Development Contributions Plan 2019* (“the development contributions plan”).

1.2 Application of this development contributions plan

The development contributions plan applies to all land within the Federation local government area.

1.3 When does this development contributions plan commence?

The development contributions plan commences on 9 October 2019.

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 certain development consents and complying development certificates requiring the payment of a levy pursuant to section 7.12 of the *Environmental Planning and Assessment Act 1979* (EP&A Act); and
- to assist Federation Council (“council”) in providing the appropriate public facilities that are required to maintain and enhance amenity and service delivery within the Federation local government area; and
- to publicly identify the purposes for which the levies are required; and
- to ensure Council’s management of levies complies with relevant legislation, guidelines and practice notes.

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 1.7 below.

1.6 What is the levy amount?

The amount to be levied is:

- nil where the proposed cost of carrying out the development is \$100,000 or less; or
- 0.5% of the development cost where the proposed cost of carrying out the development is between \$100,000 and \$200,000; or
- 1.0% of development cost where the proposed cost of carrying out the development is more than \$200,000.

1.7 Are there any exemptions to the levy?

The following development is exempted from a levy under this development contributions plan:

- development where the proposed cost of carrying out the development is \$100,000 or less; or
- development for the purposes of a single dwelling house; or
- development for the purposes of creating disabled access; or
- affordable housing as defined by the EP&A Act; or
- seniors housing as defined by *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (other than self-contained dwellings forming part of seniors housing development); or
- works undertaken for charitable purposes or by a registered charity; or
- places of public worship, public hospitals and emergency services; or
- recreational facilities, community, cultural or educational facilities provided by or on behalf of the Council or another public authority; or
- development for the sole purpose of adaptive reuse of an item identified in Council’s Heritage Schedule in the LEP or

- development exempted from Local Infrastructure Contributions by way of a Direction made by the Minister for Planning under section 7.17 of the EP&A Act; or
- development, apart from subdivision, where a condition of section 7.11 of the EP&A 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 the sole purpose of *Building Code of Australia* Class 10 structures; or
- 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 justifying the case for exemption.

1.8 Relationship with other plans and policies

The development contributions plan repeals the *Corowa Shire Developer Contributions Plans 2006*.

The development contributions plan supplements the provisions of the *Corowa Local Environmental Plan 2012*, *Urana Local Environmental Plan 2011* and any amendment or local environmental plan/s which may supersede these plans.

Council may also levy contributions towards the provision of water and sewerage infrastructure, which are not part of this development contributions plan. Such contributions will be charged in accordance with the requirements of Section 64 of the *Local Government Act 1993* and the *Water Management Act 2000*.

1.9 Pooling of levies

The development contribution plan expressly authorises money obtained from section 7.12 levies paid for different purposes to be pooled and applied (progressively or otherwise) for the public facilities listed in the works program at

Schedule 1 and in accordance with any staging set out in that Schedule.

1.10 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.

1.11 Complying development certificates and the obligations of accredited certifiers

In accordance with section 7.21(1) of the EP&A Act, a certifying authority (Council or an accredited certifier) must impose a condition requiring payment of the levy in accordance with the development contributions plan and which satisfies the following criteria:

- Pursuant to section 4.17(1) of the EP&A Act and the development contributions plan, a levy calculated in accordance with Section 1.12 below.
- The amount to be paid is to be adjusted in accordance with Section 1.15 below.

1.12 How will the levy be calculated?

The levy will be calculated as follows:

Levy payable = L x \$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 1.13 below).

1.13 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 7.12 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 7.12 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,
 - (j) the costs of enabling access by disabled persons in respect of the development,
 - (k) the costs of energy and water efficiency measures associated with the development,
 - (l) the cost of any development that is provided as affordable housing,
 - (m) the costs of any development that is the adaptive reuse of a heritage item.
- (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.

1.14 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.

1.15 How will the levy be adjusted?

Levies required as a condition of consent under the provisions of the development

contributions plan will be adjusted at the time of payment in accordance with the following formula:

$$\text{Levy at time of payment} = \$L + \$A$$

Where:

\$L is the original levy as set out in the consent condition; and

\$A is the adjustment amount which is:

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

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.

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

1.16 Can deferred or periodic payments be made?

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

1.17 Refunds of levies

Council's policy is that there are generally no refunds of section 7.12 levy payments made under the development contributions plan.

Should someone seek a refund of levies, a formal request must be made in writing to council outlining the reasons for the requested refund.

1.18 Savings and transitional provisions

A development application which has been submitted prior to the adoption of the development contributions plan but not yet determined shall be determined in accordance with the provisions of any plan that applied at the date of making the application.

1.19 Accountability and access to information

Council is required to comply with a range of financial accountability and public access to information requirements in relation to community infrastructure contributions. These are addressed in Divisions 5 and 6 of Part 4 of the EP&A Regulation and include:

- maintenance of, and public access to, a levies register;
- maintenance of, and public access to, accounting records for contributions receipts and expenditure;
- annual financial reporting of levies; and
- public access to contributions plans and supporting documents.

These records are available for inspection free of charge at the Council's administration office.

2. Expected development & demand for public facilities

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

- population growth in parts of the local government area;
- 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 (see 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 Federation. The levies will be used 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 outlined in Schedule 1.

Department of Planning (DoP) Circular PS 05-003 states that: there does not have to be a connection between the subject of the 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).

3. Works program

The works program at Schedule 1 identifies the public facilities for which section 7.12 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 the development contributions plan.

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- Department of Planning Circular PS 05-003: *Changes to the Development Contributions System in NSW – June 2005*
- *Corowa Shire Developer Contributions Plans 2006*

5. Dictionary

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

Council means Federation Council

Development Contributions Plan means *Federation Council Development Contributions Plan 2019*

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

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

levy means a financial contribution under section 7.12 of the EP&A Act authorised by the development contributions plan

public facility means a public amenity or public service

Schedule 1 – Works Program

Public facilities to be funded/embellished by levies raised by the Development Contributions Plan are listed in the following Schedule.

Schedule 1 for Developer Levy Plan Facilities

Item	Value	Priority
Runway upgrade Corowa Aerodrome	\$100,000	Medium
Corowa Bowling Club Upgrades to access and facilities	\$15,205	Medium
Corowa Memorial Hall Upgrades	\$330,152	Low
Oddfellows Hall Kitchen Upgrade	\$69,561	Low
Corowa Boat Shed Retaining Wall	\$6080	High
Rand School of Art Entrance upgrade	\$12,873	High

Open spaces

Item	Value	Priority
Corowa Mulwala Trail	\$120,000	Medium
John Foord Oval Watering System	\$101,366	High
Morris Park – Tennis Shelter Shed –Replacement	\$24,191	Low
Oaklands Restoration Reserve – Kiosk Upgrade	\$6589	High
Howlong Pool Upgrades	\$512,748	Low
Oaklands Swimming Pool upgrades	\$71,735	High
Dump Point for Muwlala	\$160,000	High

Drainage

Item	Value	Priority
Howlong Drainage Works – Stage 1	\$100,000	High
South Corowa Drainage Improvements - Area 1	\$164,941	Low
South Corowa Drainage Improvements - Area 2	\$121,639	High
South Corowa Drainage Improvements - Areas 3	\$538,68	Medium
Stormwater upgrade John Street Corowa	\$205,519	Medium
Stormwater upgrade Billyday Court and Gibson Place Howlong	\$100,000	High
Jude St, Holbeach St & Kennedy St Catchment upgrade Howlong	\$15,2049	High
North Street and Savernake Road Drainage Upgrade, Mulwala	\$130,000	High
Oura Street Stormwater Drainage Upgrade	\$96,000	High

Roads

Item	Value	Priority
Daysdale Slight curve	\$1,100,000	High
Redlands Road and Guy Street Intersection upgrade. Corowa	\$82,470	Low
Lucan Street/Bayly Street intersection upgrade	\$150,000	Medium