



JUNEE SHIRE COUNCIL

S94A LEVY CONTRIBUTIONS PLAN 2016

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Effective from: 21 June 2016

JUNEE SHIRE COUNCIL

S94A LEVY CONTRIBUTIONS PLAN 2016

PART I Administration and Operation

1. What is the name of this plan?

This plan is called *Junee Shire Council Section 94A Levy Contributions Plan 2016*.

2. Date of commencement

This Plan commences on 21 June 2016.

3. Purpose of this plan

The purpose of this plan is:

- to authorise the Council to impose, as a condition of development consent under s94A of the Environmental Planning and Assessment Act 1979 (“the Act”), a requirement that the applicant pay to the Council a levy determined in accordance with this plan,
- to require a certifying authority (the Council or an accredited certifier) to impose, as a condition of issuing a complying development certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this plan, if development consent was granted subject to a condition authorised by this plan, and
- to govern the application of money paid to the Council under conditions authorised by this plan.

4. Land to which this Plan applies

This Plan applies to all land within the Junee Shire local government area (LGA).

5. Development to which this Plan applies

This Plan applies to development on land to which this Plan applies that requires development consent or complying development certificate under the *Environmental Planning and Assessment Act 1979 (the Act)*.

6. Repeal of Junee Shire Council S94A Levy Contribution Plan 2011

This Plan repeals Junee Shire Council Section 94A Contributions Plan 2011

7. What does Section 94A of the Act provide?

Section 94A of the Act provides as follows:

94A Fixed development consent levies

- (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 94.
- (2A) (Left blank deliberately.)
- (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.

8. Termination

This plan ceases to have effect 5 years from the date on which this Plan commences.

9. Council may require payment of the levy as a condition of development consent

Subject to any direction of the Minister under section 94E of the Act which is in force from time to time, this plan authorises the Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay to the Council a levy in accordance with the following scale:

- a) in the case of development other than development specified in paragraph (1)(b) of Section 25K of the Act:
 - i. if the proposed cost of carrying out the development is up to and including \$100 000 – nil, or
 - ii. if the proposed cost of carrying out the development is more than \$100 000 and up to and including \$200 000 – 0.5% of that cost, or
 - iii. if the proposed cost of carrying out the development is more than \$200 000 – 1% of that cost.

If a Ministerial direction under section 94E is in force, this plan authorises the Council to grant consent to development subject to a condition which is in accordance with that direction.

Any Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this plan.

10. Certifying authority must require payment of the levy as a condition of issuing a complying development certificate

Subject to any direction of the Minister under section 94E of the Act which is in force from time to time, this plan requires a certifying authority (the Council or an accredited certifier) to issue a complying development certificate in respect of development to which this plan applies subject to a condition requiring the applicant to pay to the Council a levy of 1% in accordance with the following scale:

- a) in the case of development other than development specified in paragraph (1)(b) of Section 25K of the Act:
 - i. if the proposed cost of carrying out the development is up to and including \$100 000 – nil, or
 - ii. if the proposed cost of carrying out the development is more than \$100 000 and up to and including \$200 000 – 0.5% of that cost, or
 - iii. if the proposed cost of carrying out the development is more than \$200 000 – 1% of that cost.

If a Ministerial direction under section 94E is in force, this plan authorises the certifying authority to issue a complying development certificate subject to a condition which is in accordance with that direction.

Any Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this plan.

11. How is the proposed cost of carrying out development determined?

Clause 25J of the Regulation sets out how the proposed cost of carrying out development is to be determined. 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) (Left blank deliberately.)
- (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 for 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) (Left blank deliberately).

Notes:

- Clause 25J (1)(a) and (c) – where development the subject of a development application is for the subdivision of a building or land and includes subdivision works, the proposed cost of the development will include the cost of the engineering or construction work involved in carrying out the subdivision works.
- Clause 25J(3)(b) – repairs do not include alterations and additions to a building or work.

12. How is the proposed cost of carrying out development indexed?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed before payment to reflect annual variations in the *Consumer Price Index All Group Index Number for Sydney* between the date the proposed cost was determined by the Council and the date the levy is required to be paid.

The formula governing indexation of the proposed cost of carrying out development is as follows:

$$\mathbf{IDC = ODC \times CP2/CPI}$$

where:

IDC = the indexed development cost

ODC = the original development cost estimated by the Council

CP2 = the *Consumer Price Index All Group Index Number for Sydney* at the time a levy is paid

CPI = the *Consumer Price Index All Group Index Number for Sydney* at the date the original development cost was estimated by the Council.

13. Cost estimate reports must accompany a development application or application for a complying development certificate

A development application or an application for a complying development certificate is to be accompanied by a detailed cost report prepared at the applicant's cost in accordance with Schedule 2.

14. Who may provide a report for the purposes of clause 12?

For the purpose of clause 25J(2) of the Regulation, the following persons are approved by the Council to provide a detailed cost report for the purposes of clause 12:

- a licensed builder,
- a Practising Structural Engineer,
- a Quantity Surveyor,

- an Architect,
- a current building cost indicator (eg. Cordell or Rawson publication)
- a person appointed by agreement between the applicant and the Council.

The Council may, at the applicant's cost, engage a person referred to in this clause to review a report submitted by an applicant in accordance with clause 12.

15. How will the Council apply money obtained from the levy?

Money paid to the Council under a condition authorised by this plan is to be applied by the Council towards meeting the cost of the provision, or the recoupment of the cost, of one or more of the public facilities listed in Schedule 1. The locations of those facilities are shown on the map accompanying this plan.

16. Pooling of levies

For the purposes of s93E(2) of the Act, this plan authorises money obtained from levies paid in respect of different developments to be pooled and applied by the Council progressively towards the public facilities listed in Schedule 1.

17. Obligation of certifying authorities

Pursuant to clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it is satisfied of compliance with any condition of consent requiring the payment of a levy before work is carried out in accordance with the consent.

The certifying authority must cause the applicant's receipt for payment of the levy to be provided to the Council at the same time as the other documents required to be provided under clause 142(2) of the Regulation.

18. When is the levy payable?

A levy required to be paid by a condition authorised by this plan must be paid to the Council at the time specified in the condition.

If no time is specified, the levy must be paid prior to the first certificate issued under Part 4A of the Act in respect of the development the subject of the development consent under which the levy is required to be paid.

19. What is the Council's policy on the deferred or periodic payment of levies?

The Council does not allow deferred or periodic payment of levies authorised by this plan.

20. Are there alternatives to payment of the levy?

If an applicant for development consent seeks to make a contribution towards the provision of public facilities to meet development other than by payment of a levy or development contributions, the applicant may adopt one of the following procedures:

- ***Offer made to the Council as part of a development application***

If an applicant does not wish to pay a levy or development contributions in connection with the carrying out of development, the applicant may include in the relevant development application an offer to carry out works or provide a material public benefit towards which the levy was to be applied.

The Council will consider the offer as part of its assessment of the development application. If the Council agrees to the arrangement and grants consent to the application, it will substitute a condition of consent under s80A of the Act requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under s94A. If the Council does not agree to the alternative arrangement, it may grant consent subject to a condition authorised by this plan requiring payment of a levy.

In assessing the applicant's offer, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual (DIPNR 2005)*.

- ***Offer made to Council following the grant of development consent requiring payment of a levy***

If development consent has been granted to the carrying out of development subject to a condition authorised by this plan to pay a levy, the applicant must comply with the condition unless it is modified under s96 of the Act.

If the applicant does not wish to pay the levy, the applicant may make an application to the Council under s96 of the Act to modify the consent by substituting for the condition requiring payment of the levy a condition requiring the carrying out of works or the provision of a material public benefit towards the public purpose to which the levy was to be applied.

If the Council approves the application, the applicant will be bound by the substituted condition. If the Council does not approve the application, the applicant will remain bound by the condition authorised by this plan requiring payment of the levy.

In assessing the s96 application, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* (DIPNR 2005).

- ***Offer to enter into a voluntary planning agreement***

If an applicant does not wish to pay a levy in connection with the carrying out of development, the applicant may offer to enter into a voluntary planning agreement with the Council under s93F of the Act in connection with the making of a development application.

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. Those purposes need not relate to the impacts of the applicant's development nor to the items listed in Schedule 1.

The applicant's provision under a planning agreement may be additional to or instead of paying a levy in accordance with a condition of development consent authorised by this plan. This will be a matter for negotiation with the Council.

The offer to enter into the planning agreement together with a copy of the draft agreement should accompany the relevant development application.

The Council will publicly notify the draft planning agreement and an explanatory note relating to the draft agreement along with the development application and will consider the agreement as part of its assessment of that application.

If the Council agrees to enter into the planning agreement, it may impose a condition of development consent under s93I(3) of the Act requiring the agreement to be entered into and performed. If the Council does not agree to enter into the planning agreement, it may grant consent subject to a condition authorised by this plan requiring the payment of a levy.

21. What definitions apply?

In this Plan unless the context or subject matter otherwise indicates or requires:

ABS means the Australian Bureau of Statistics,

Act means the *Environmental Planning and Assessment Act 1979*,

Council means Junee Shire Council,

levy means a levy under s94A of the Act authorised by this plan,

Minister means the Minister administering the Act,

public facility means a public amenity or public service,

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

PART 2 Expected types of development in the Council's area and the demand for public facilities to be funded by the levy

Junee LGA Demographic Snapshot

Junee Shire is a rural shire 2,000 square kilometres in size on the South West Slopes of New South Wales. The township of Junee is 41 kilometres from Wagga Wagga. In 2011, the total population of Junee Council area was estimated to be 6,129 people.

There are four villages within the Junee Shire being Illabo, Bethungra, Old Junee and Wantabadgery. Populations range up to 130 people within the village areas. All village areas have urban areas and some are serviced by general stores, manufacturing and tourism industries, public parks and recreation camping areas.

Growth

According to the 2011 ABS data, the population of the Shire is expected to increase by over 740 people to 6,876 by 2026, at an average annual growth rate of 0.77%. This is based on an increase of over 290 households during the period, with the average number of persons per household rising from 2.51 to 2.51 by 2026.

In 2011, the dominant household type in Junee Council area was couple families with dependents, which accounted for 30.2% of all households. The largest increase between 2011 and 2026 is forecast to be in lone person households, which will increase by 109 households and account for 28.9% of all households.

Between 2001 and 2011 the occupancy rates for dwellings declined from 2.7 to 2.5. With this decline in occupancy of dwellings there is a need to provide housing that responds to maintain population. While an increase in population is desirable for the economic sustenance, it also gives the Shire a degree of viability.

Council's 25 Year Residential Land Strategy for Junee and other urban areas estimates that an additional 384 residential homes are required to be built, based on a continued average growth rate of 1%. Public expectation in providing services associated with this growth, requires additional infrastructure in the form of amenity, road works and facilities.

Economy

There is approximately \$6m worth of construction work carried out in the Shire annually. The majority of this work, in the past two years, has been for dwelling or unit construction. Commercial or industrial development has been isolated to one or two significant items per year.

Junee's railway history has developed significant infrastructure some of which has been left dormant as a result of the re-structuring of state rail infrastructure. The Junee Roundhouse is now occupied by a private company which employs twenty six people who carry out maintenance work to locomotive engines, amongst other things. Junee is expected to take

advantage of the resurgence in railway activity because of its central location, historical connection with railways and easy access to railway infrastructure.

Agriculture is a strong economic driver in the shire, albeit contained by recent drought, which appears to have eased owing to good rainfalls during 2010. Movement is occurring in the associated area of grain handling. This is stimulating economic development in this area. Agricultural practices and related transport activity have the greatest impact on the shire's roadwork. Council's financial commitment is significant in keeping the road infrastructure maintained and is critically important infrastructure supporting agricultural industry.

Infrastructure Framework

The existing social infrastructure managed by the Council includes parks and gardens, sporting fields, reserves, public buildings, camping grounds, playground equipment, irrigation equipment, sporting complex and road network. There are a number of specific items listed within Schedule I that have been identified by Council and the community as being priority works. The improvement and upgrade of these facilities meets Council inter-generational equity responsibility to the community.

Council's strategic vision is to re-populate the shire after several decades of decline. The Council has been active in improving amenity and making land available for development to attract new residents. This strategy has been working in recent years with a continuing growth rate of 0.7%. The nexus between continuing growth, increased population, with more houses being built and the requirement to continually improve or develop infrastructure, be it social or utilities, is the major focus of this plan.

Commercial and retail sector development will continue to be focused within Junee township rather than the outlying areas. Development impact for these activities places pressure on infrastructure such as car parking, public toilets and waste management. While growth in this area is more likely to be opportunistic rather than strategic, the development of this plan will assist in controlling the impacts mentioned.

Industrial developments require access to infrastructure that is not controlled by Council. There are dedicated areas in the Shire for industrial development and should increased activity occur in these areas then the infrastructure under Council's control will need improvement, specifically in the areas of roads, storm water and waste management.

Schedule I

(Clause 14)

Works Schedule

DESCRIPTION	ESTIMATED COST	PRIORITY Low (L) Medium (M) High (H)
OPEN SPACE & RECREATION		
Village Park and Gardens	\$20 000	M
Laurie Daley Oval Amenities	\$50 000	H
Bethungra Dam Reserve	\$10 000	L
Viewing platform Rocky Hill	\$30 000	L
Upgrade of playground equipment	\$35 000	L
SUBTOTAL	\$145 000	
CIVIL INFRASTRUCTURE		
Public Buildings		
Athenium Theatre	\$30 000	H
New Footpaths		
Urban Footpaths crossings	\$20 000	M
Tree Planting & Removals		
Urban street tree planting	\$5 000	M
Road Infrastructure		
Urban Roads	\$20 000	L
Rural Roads	\$100 000	H
SUBTOTAL	\$175 000	
COMMUNITY FACILITIES		
Community Complex		
Junee Junction Recreation & Aquatic Centre	\$100 000	M
SUBTOTAL	\$100 000	

Priority Timing

Low Priority up to five years

Medium Priority two to four years

High Priority zero to three years

Public facilities for which levies will be sought

A. Completed works for which contributions will be recouped

Nil

B. Works in progress for which contributions will continue to be levied

Junee Junction Recreation & Aquatic Centre

Village Parks and Gardens

Urban and Rural Road Network

C. New public facilities for which contributions will be sought

Viewing platform at Rocky Hill

Schedule 2

(Clause 12)

Detailed Cost Report*

To be completed by a person specified in Clause 13.

DEVELOPMENT

COMPLYING DEVELOPMENT

APPLICATION NO.

APPLICATION NO.

CONSTRUCTION

CERTIFICATE NO.

DATE

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

Total			
Gross Floor Area – Commercial	m ²	Rate/m ² \$	\$
Gross Floor Area – Residential	m ²	Rate/m ² \$	\$
Gross Floor Area – Retail	m ²	Rate/m ² \$	\$
Gross Floor Area – Car Parking	m ²	Rate/m ² \$	\$
Number of Carparking Spaces	No.	Rate/space \$	\$
Total Development Cost			\$
Total Construction Cost			\$
Total GST			\$

ESTIMATE DETAILS:

Professional Fees			\$
Demolition costs (/m ²)		Cost item	\$
Excavation earthworks (/m ³)		Cost item	\$
Site Remediation	/m ²	Cost item	\$
Fire Safety Measures	/m ³	Cost item	\$
Other costs (please list)	/m ³	Cost item	\$

Total Development Cost	\$
Total Construction Cost	\$
Total GST	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions Plan of Junee Shire Council at current prices.
- included GST in the calculation of development cost.
- measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume I, Appendix A2.

Signature: _____

Name: _____

Position & Qualifications: _____

Date: _____

Attachment

Environmental Planning and Assessment Act 1979

DIRECTION UNDER SECTION 94E

I, the Minister for Planning, under section 94E of the *Environmental Planning and Assessment Act 1979* (“the Act”), direct consent authorities that:

- (1) The maximum percentage of the levy for development under section 94A of the Act, having a proposed cost within the range specified in the Table to Schedule A, is to be calculated in accordance with that Table.
- (2) Despite subclause (1), a levy under section 94A of the Act cannot be imposed on development:
 - a) for the purpose of disabled access,
 - b) for the sole purpose of affordable housing,
 - c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
 - d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or
 - e) 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 this direction words and expressions used have the same meaning as they have in the Act. The term “item” and “environmental heritage” have the same meaning as in the *Heritage Act 1977*.

This direction does not apply to development applications and applications for complying development certificates finally determined before 1 December 2006.

FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.

SCHEDULE A

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 percent
More than \$200,000	1.0 percent