



Section 94A Development Contributions Plan

JUNE 2013

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PART A – SUMMARY SCHEDULES

The following summary schedules are included in this plan:

- Works program
- Summary of levy by category.

The works schedule identifies the public facilities for which section 94A levies will be required. Schedule 1 identifies the works schedule and a summary of the expenditure on the respective items.

Levies paid to council will be applied towards meeting the cost of provision or augmentation of new public facilities. Schedule 1 provides a summary of new public facilities, which will be provided by council over the next 5 years, as well as the estimated cost of provision and timing.

Schedule 1: New public facilities for which levies will be sought

Public Facilities	Estimated Costs	Estimated Time Frame
Administration of the Section 94A Plan	\$2,184	Annually
Complete reseal between Brewarrina to Hebel (via Goodooga)	\$18,850,000	2013
Kerb & paving program for Brewarrina township	\$800,000	2008-2013
Kerb & guttering (lower end of Bathurst Street)	\$250,000	2008
Sealing of road to Goodooga Cemetery	\$300,000	2009
River Walkway	\$100,000	2010-2011
Bitumen seal laneways behind the business areas	\$500,000	2009
Installation of skate and bike parks at Brewarrina, Goodooga & Weilmoringle	\$50,000	2009
Basketball & Netball courts	\$10,000	2009
Shade shelter for Brewarrina Pool	\$15,000	2009
Youth Centre Upgrade	\$40,000	2008
Goodooga Tennis Court Relocation	\$20,000	2013
Levee remedial works	\$300,000	2009
Bathurst Street Footpath	\$200,000	2009
New Waste Disposal Facility	\$50,000	2009
New Dog Pound	\$30,000	2009
4 Mile Reserve camping facilities	\$10,000	2009
Barwon Boat Ramp Facilities	\$10,000	2009
Filomet PreCleaner Filter System	\$50,000	2009
Valve replacement program	\$30,000	2009
Mains replacement program	\$30,000	2009
Replace backwash aerator pump	\$20,000	2009
Sewerage Treatment Works Upgrade	\$35,000	2009
Town Centre Development Strategy	\$1,700,000	2012
Community Centre – replace front and back awning	\$65,000	2013
Footpath – access ramps	\$80,000	2014

Schedule 2: Summary Schedule for Section 94A Contributions Plan

Proposed Cost of Development	Levy (%)
Up to \$100,000	0
\$100,001 to \$200,000	0.5
\$200,001 and above	1

PART B - EXPECTED DEVELOPMENT AND DEMAND FOR PUBLIC FACILITIES

Brewarrina is a remote rural community situated in Outback NSW, 800kms from Sydney, 136kms west of Walgett and 100kms east of Bourke on the Kamilaroi Highway. Although Brewarrina is relatively a small Shire, it is spread out over an area of 19,000 km² - the same size as Australia's largest National Park- Kakadu. Brewarrina was one of the great inter-tribal meeting places of eastern Australia with the fish traps, known in the Aboriginal language as Ngunnhu, sustaining thousands of Aboriginal people during tribal gatherings held prior to European settlement. The fisheries are estimated to be at least 40,000 years old and could be the oldest man-made structure on earth. Other towns and villages in the Brewarrina district include; Goodooga, Gongolgon, Weilmoringle and Angledool.

The estimated population of Brewarrina Shire in 2011 was 1766 persons (based on 2011 census).

Despite a slightly declining resident population, there is evidence of changing demands on Council infrastructure/services which might be caused by the re-distribution of a population within an LGA and changes to the development pattern in the LGA.

Accordingly, this will require the provision of additional public facilities, whilst not diminishing the existing population's enjoyment and standards of public facilities.

Brewarrina Shire Council is committed to providing the equitable distribution of public facilities for the benefit and wellbeing of all residents. Schedule 1, identifies the public amenities or services to be provided, recouped, extended or augmented by contribution monies derived by this Plan.

PART C – ADMINISTRATION AND OPERATION OF THE PLAN

1.1 What is the name of this development contributions plan?

This development contributions plan is called the:

Brewarrina Section 94A Development Contributions Plan 2008

The Plan will be reviewed on an annual basis and any amendments will be recorded in the following table:

Plan Title	Amendments	Adoption Date	Version Number
Brewarrina Shire Council Section 94A Development Contributions Plan 2008	New Plan	Adopted 27 February 2009 Commenced 1 April 2009	1
Brewarrina Shire Council Section 94A Development Contributions Plan 2013	Schedule 1 amendment	Adopted 19 April 2013	2

1.2 Application of this Plan

This plan applies to all land within the local government area of Brewarrina as shown on the map.

This development contributions plan applies to applications for development consent and applications for complying development certificates under Part 4 of the *Environmental Planning and Assessment Act 1979*. All development types are levied at the rates specified in the following table of the estimated cost of carrying out the development:

Proposed Cost of Development	Levy (%)
Up to \$100,000	0
\$100,001 to \$200,000	0.5
\$200,001 and above	1

1.3 When does this development contributions plan commence?

This contributions plan commences on 1 April 2009.

1.4 What is the purpose of the contributions plan?

The primary purposes of this contributions plan are:

- To authorise the imposition of a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the *Environmental Planning and Assessment Act 1979*.
- To assist the council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area
- To publicly identify the purposes for which the levies are required.

1.5 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 \$100,000.00 or less;
- 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
- that has been the subject of a condition under section 94 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.

1.6 Pooling of levies

This plan expressly authorises section 94A levies 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.

1.7 Construction Certificates and the obligation of Accredited Certifiers

In accordance with clause 146 of the *Environmental Planning and Assessment Regulation 2000 (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 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.

1.8 How will the levy be calculated?

Clause 25J of the Regulation sets out how the proposed cost of carrying out development is to be determined. The clause provides:

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,
 - 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.

The levy will be determined on the basis of the rate as set out in summary schedule. The levy will be calculated as follows:

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

Where:

- %C** is the levy rate applicable
- \$C** is the proposed cost of carrying out the development

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the Regulation. The procedures set out in Schedule 1 to this plan must be followed to enable the 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 must be independently certified by a Quantity Surveyor (if the value of works is greater than \$1,000,000.00) 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. 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.

1.9 When is the levy payable?

A levy must be paid to the 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.

1.10 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 variations in the Consumer Price Index for 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 the indexation of the proposed cost of carrying out development is:

$$IDC = ODC \times CPI2 / CPI1$$

Where:

IDC = the indexed development cost

ODC = the original development cost estimated by Council

CPI2 = the Consumer Price Index All Group Index Number for Sydney at the time the levy is paid

CPI1 = the Consumer Price Index All Group Index Number for Sydney at the date the original development cost was estimated by Council.

1.11 Can deferred or periodic payments be made?

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

- 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,
- in other circumstances considered reasonable by council.

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

- the bank guarantee be by a bank 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

- 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.

PART D – REFERENCES

Dictionary

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

Capital Costs	Means all of the costs of a one-off nature designed to meet the cost of providing, extending or augmenting infrastructure.
Catchment	Means a geographic or other defined area to which a contributions plan applies.
Community Infrastructure	Means infrastructure of a communal, human or social nature, which caters for the various life-cycle needs of the public including but not limited to childcare facilities, community halls, youth centres, aged persons facilities.
Contributions Plan	Means a public document prepared by Council pursuant to Section 94EA of the <i>Environmental Planning and Assessment Act 1979</i> .
Council	Means Brewarrina Shire Council
Development	Means: The erection of a building on that land The carrying out of a work in, on, over or under that land The use of that land or of a building or work on that land The subdivision of the land.
Developer contribution	Means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit
Material Public Benefit	Does not include the payment of a monetary contribution or the dedication of land free of cost.
Planning Agreement	Means a voluntary agreement referred to in Section 93F of the <i>Environmental Planning and Assessment Act 1979</i> .
Planning Authority	Means: A Council, or The Minister, or The corporation, or A development corporation (within the meaning of the <i>Growth Centres (Development Corporations) Act 1974</i>), or A public authority declared by the EP&A Regulations to be a planning authority for the purposes of this Division
Planning Obligation	Means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution
Public	Includes a section of the public
Public benefit	Is the benefit enjoyed by the public as a consequence of a development contribution
Public facilities	Means public infrastructure, facilities, amenities and services
Public purpose	Is defined in Section 93F(2) of the <i>Environmental Planning and Assessment Act 1979</i> to include the provision of, or the recoupment of the cost of providing public amenities and public services (as defined in Section 93C), affordable housing, transport or other infrastructure. It also includes funding of recurrent expenditure relating to such things, the monitoring of the planning impacts of development and the conservation or enhancement of the natural environment.

Recurrent costs	Means any cost which is of a repeated nature that is required for the operation or maintenance of a public facility.
Regional Infrastructure	Means facilities which satisfy the demands of a catchment greater than one local government area
Thresholds	Means a level at which the capacity of the infrastructure item is reached or the event which triggers the requirement for provision of a facility
Utility service	Means basic engineering services such as power, water, sewerage and telecommunications
Works-in-Kind	Means the construction or provision of the whole or part of a public facility that it identified in a works schedule in a contributions plan

Reference Documents

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

- Brewarrina Local Environment Plan 2000
- Brewarrina Shire Council Management Plan 2008-2012
- Department of Infrastructure, Planning and Natural Resources – Development Contribution Practice Notes – July 2005
- Department of Planning – Circular PS06-020 6 December 2006 - Changes to the Application of Section 94A of the EP&A Act - Ministerial Direction
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- Town Centre Development Strategy
- Brewarrina Shire Council – Strategic Plan
- Brewarrina Shire Council – Asset Management Plan
- Roads to Recovery Program

APPENDIX A

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:

A cost summary report must be completed for works with a value no greater than \$1,000,000.00.

A Quantity Surveyor's Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value greater than \$1,000,000.00.

To avoid doubt, Section 25J of the *Environmental Planning and Assessment Act 1979* sets out the things that are included in the estimation of the construction costs 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:

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.

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.

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.

Sample Cost Summary Report

Development Cost no greater than \$1,000,000.00

Reference:	
DA No. or CDC No.:	
Construction Certificate No.:	
Applicants Name:	
Applicants Address:	
Development Description:	
Development Address:	

Analysis of Development Costs:

ITEM	COST (\$)
Demolition and alterations	
Structure	
External walls, windows and doors	
Internal walls, screens and doors	
Wall finishes	
Floor finishes	
Ceiling finishes	
Fittings and equipment	
Hydraulic services	
Mechanical services	
Fire services	
Lift services	
External works	
External services	
Other related work	
SUB TOTAL	
Preliminaries and margin	
SUB TOTAL	
Consultant Fees	
Other related development costs	
SUB TOTAL	
GST	
TOTAL DEVELOPMENT COST	

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 clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.
- Included GST in the calculation of development cost.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____

Registered Quantity Surveyor's Detailed Cost Report

NOTES:

- Development Cost in excess of \$1,000,000.00
- The Quantity Survey is to be a member of the Australian Institute of Quantity Surveyors

Reference:	
DA No. or CDC No.:	
Construction Certificate No.:	
Applicants Name:	
Applicants Address:	
Development Description:	
Development Address:	

DEVELOPMENT DETAILS:

Gross Floor Area – Commercial	m ²
Gross Floor Area – Residential	m ²
Gross Floor Area – Retail	m ²
Gross Floor Area – Car Parking	m ²
Gross Floor Area – Industrial	m ²
Gross Floor Area – Other	m ²
Total Gross Floor Area	m ²
Total Site Area	m ²
Total Car Parking Spaces	
Total Development Cost	\$
Total Construction Cost	\$
Total GST	\$

ESTIMATE DETAILS:

Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per square metre of site area	\$ / m ²
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$ / m ²
Cost per m ² of site area	\$ / m ²	Cost per space	\$ /space
Construction – Commercial	\$	Fit-out – Commercial	\$
Cost per m ² of commercial area	\$ / m ²	Cost per m ² of commercial area	\$ / m ²
Construction – Residential	\$	Fit-out – Residential	\$
Cost per m ² of residential area	\$ / m ²	Cost per m ² of residential area	\$ /m2
Construction – Retail	\$	Fit-out – Retail	\$
Cost per m ² of retail area	\$ / m ²	Cost per m ² of retail area	\$ / m ²

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 S94A Development Contributions Plan of the council of [insert] 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 1, Appendix A2.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____