



WAVERLEY
COUNCIL

WAVERLEY COUNCIL

Development Contributions Plan

2006

(Amendment No. 8)



Waverley Council

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PART 1 ADMINISTRATION AND OPERATION

1 Name of this Plan

This Plan is named *Waverley Council Development Contributions Plan 2006*.

2 Commencement of this Plan

This Plan has been prepared in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* (Act) and the *Environmental Planning and Assessment Regulation 2000* (Regulation). Amendment No. 8 to the Waverley Development Contributions Plan 2006 was adopted on 6 February 2018 and came into force on 21 February 2018.

This Plan repeals Amendment No. 7 to the Waverley Development Contributions Plan 2006.

3 Purpose(s) of this Plan

The purpose of this Plan is to:

- authorise Waverley Council ('Council') to impose, as a condition of development consent, a requirement that the applicant pay to Council a levy determined in accordance with this Plan;
- 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;
- enable Council to be both publicly and financially accountable in its assessment and administration of this Plan;
- provide a comprehensive framework for the assessment, collection, expenditure, accounting and indexing of development contributions on an equitable basis; and
- govern the application of money paid to Council under conditions authorised by this Plan for the provision, extension or augmentation of public facilities, or towards recouping the cost of their provision, extension or augmentation to meet the demand created by developments.

4 Section 7.12 of the Act

Section 7.11 of the Act provides that 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. The 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.

5 Land to which this Plan applies

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

6 Development to which this Plan applies

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

7 Application of Section 7.12 levies

This Plan authorises Council to grant consent to development to which this Plan applies subject to a condition requiring the applicant pay Council a levy as specified in the following table:

Proposed cost (\$AUD) of the development	Maximum percentage (%) of the levy
\$0 to \$100,000	Nil
\$100,001 – \$200,000	0.5 percent (%)
More than \$200,000	1.0 percent (%)

8 Section 4.55 modifications and changes to Section 7.12 levies

Should an applicant propose amendments to the development, subject to Section 4.55 of the EP&AA 1979, that result in amendments to the proposed development cost, the Section 7.12 levy should be adjusted accordingly.

9 Payment of Section 7.12 levy

This Plan requires a certifying authority (Council or an accredited certifier) to require applicants for a complying development certificate or a construction certificate to pay Council a levy prior to issue of the certificate in accordance with Clause 7 of this Plan.

A levy required to be paid by a condition authorised by this Plan must be paid to Council at the time specified in the condition. If no time is specified, the levy must be paid prior to the construction certificate or complying development certificate being issued in respect of the development under Part 4A of the Act.

10 Determination of proposed cost of development

An application for a complying development certificate or a construction certificate is to be accompanied by a cost estimate report, prepared at the applicant's cost in accordance with this clause, setting out an estimate of the proposed cost of carrying out the development for the purposes of Clause 25J of the Regulations.

The following type of report(s) is required:

- Where the estimate of the proposed cost of carrying out the development is less than \$500,000 – cost summary report in accordance with Schedule 1 of this Plan; or
- Where the estimate of the proposed cost of carrying out the development is \$500,000 or more – detailed cost report in accordance with Schedule 2 of this Plan.

For the purpose of Clause 25J(2) of the Regulations, the following persons are approved by Council to provide an estimate of the proposed cost of carrying out development in the following circumstances:

- Where the proposed development cost is less than \$500,000 – a person who, in the opinion of Council, is suitably qualified to provide a cost summary report;
- Where the proposed development cost is \$500,000 or more – a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

Upon reviewing a cost summary report, Council may require a further estimate or review of a report to be provided by a registered quantity surveyor at the applicant's cost.

11 Circumstances where the Section 7.12 levy may be waived

(a) Development exempted by Ministerial Direction

Conditions authorised by this Plan are subject to any direction given by the Minister of the Department of Planning and Environment under Section 7.17 of the Act (refer to Attachment 1 in this Plan). This Plan authorises the imposition of conditions in accordance with any such direction. Under Section 7.17 the Minister has directed Council to exempt development from a levy under this Plan as follows:

- 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 the 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.

(b) Other development exempted from the levy

Other exemptions from a levy under this plan may be considered by Council for the following development or components of development:

- The applicant is a registered charity (as defined by ATO), but only in cases where the development is of small scale (e.g. retail outlet) and where there will not be an increase in the demand for public works or infrastructure as a result of a development which would warrant the payment of a Section 7.12 levy;
- The operation provides a public benefit and is in the public interest;
- Applications submitted by or on behalf of Waverley Council;
- An application for or on behalf of NSW Government for public infrastructure such as hospitals, police stations, fire stations, education facilities and public transport infrastructure;
- An application for privately funded community infrastructure such as education facilities, universities, private hospitals;
- The NSW Government introduces new laws mandating completion of specific works relating to existing developments that have a public benefit; or
- Any other development for which Council considers an exemption is warranted, where the decision is made by formal resolution of Council at a Council meeting.

12 Application of Section 7.12 levy

Money paid to Council under a condition in accordance with this Plan is to be applied by Council towards meeting the cost of public facilities that will be, or have been provided towards works outlined in the Waverley Long Term Financial Plan which is updated annually. The Waverley Long Term Financial Plan is available on Council's website at the link below:

http://www.waverley.nsw.gov.au/council/plans_policies_and_reports/long_term_financial_plans

13 Priorities for expenditure of Section 7.12 levies authorised by this Plan

Subject to Section 7.3(2) of the Act and this Plan, the public facilities listed in Schedule 1 are to be provided, in accordance with the staging set out in Schedule 1. The list, timing and costs detailed in Schedule 1 are designed in accordance with Council's Long Term Financial Plan.

14 Pooling Section 7.12 levies

For the purposes of Section 7.3(2) of the Act, this Plan authorises money obtained from Section 7.12 levies paid in respect of different developments to be pooled and applied by Council progressively towards public facilities listed in Schedule 1. Funds acquired under repealed Section 7.11 and Section 7.12 Plans may be pooled in order to achieve the objectives and projects nominated within this Plan.

15 Obligations of certifying authorities

Clause 146 of the Regulations provides that 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 each condition requiring the payment of a levy before work is carried out in accordance with the consent. The certifying authority must provide receipt to Council that the applicant has paid the levy, at the same time as other documents required to be provided under Clause 142(2) of the Regulations.

16 Deferred or periodic payment of Section 7.12 levies

Council will only consider deferred payment of a monetary contribution through periodic payments (i.e. payment by installments). The development application must involve staged construction and be of a public benefit. This can only occur if the applicant, or any other person entitled to act upon the relevant consent, makes a written request satisfying to Council that non-compliance with the payment provisions is justified. Acceptance of any request for periodic payment is entirely at the discretion of the Council. Periodic payments will generally only be accepted in exceptional circumstances and will be assessed on a case-by-case basis.

The following circumstances need to be addressed when requesting a periodic payment:

- Compliance with *Clause 15 Obligations of Certifying Authorities* is unreasonable or unnecessary in the circumstances of the case;
- Deferred or periodic payment of the contribution will not prejudice the cost, timing or efficiency of implementation of the public facilities and services included in the works programs;
- No detriment will be caused to the community, Council or other developers;
- Details of staging of construction;
- How the existing/new development is considered to be of a public benefit; and
- There are circumstances justifying the deferred or periodic payment of the contribution.

If Council does decide to accept periodic payments, the arrangements relating to the payment will not take effect until the applicant has entered into a written agreement with the Council reflecting the terms of the Council's approval. If approved, a condition relating to the periodic payment will be placed on the development consent.

17 Alternatives to payment options

If an applicant for development consent seeks to make a development contribution towards the provision of public facilities to off-set a development impact other than by payment of a levy pursuant this Plan, the applicant may adopt one of the following procedures to the satisfaction of, and at the discretion of Council:

(a) Offer as part of a development application

If an applicant does not wish to pay a levy in connection with the 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.

Council will consider the offer as part of its assessment of the development application. If Council agrees to the offer and grants consent to the application, it will substitute a condition of consent under Section 4.17 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 Section 7.12. If Council does not agree to the proposed 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, Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Development Contributions Practice Note* (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the public benefit is of equal or greater value than the monetary contribution that would otherwise be required; and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards and transferred to Council.

(b) Offer 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 Section 4.55 of the Act.

If the applicant does not wish to pay the levy, the applicant may make an application to Council under Section 4.55 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 Council approves the application, the applicant will be bound by the substituted condition. If 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 Section 4.55 application, Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Development Contributions Practice Note* (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the public benefit is of equal or greater value than the monetary contribution that would otherwise be required, and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards and transferred to Council.

(c) Offer to enter into a Planning Agreement (PA)

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 Planning Agreement (PA) with Council under Section 7.4 of the Act in connection with the making of a development application. Under the PA, 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 items listed in Schedule 1. The applicant's provision under a PA 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 Council. Should an applicant be wishing to enter a PA, it is necessary to consider Section 7.4 of the EP&AA 1979, Regulations 2000 and Council's Planning Agreement Policy 2014.

PART 2 EXPECTED TYPES OF DEVELOPMENT

This part broadly discusses the relationship between the expected types of development in the LGA and demand for additional public amenities to meet that development.

The expected types of development which will generate demand for additional public services or upgrades to amenities include, but are not limited to:

- Commercial development
- Residential development (including alterations and additions)
- Mixed use development
- Recreational or tourism related development
- Subdivisions

The development types identified above are forecasted to generate demand for the facilities detailed in Schedule 1 of this Plan. A section 7.12 levy will enable Council to provide quality and diverse public facilities and services to meet the expectations of the community. Although the Waverley Local Government Area (LGA) has a slight increase in predicted population growth, Waverley LGA is experiencing significant growth in the amount of temporary residents and tourists, with over three times as many tourists in 2001 compared to 1996 (*Waverley Council Social Plan 2005-2010*). This growing transient population, as well as the level of expectation for services from permanent residents, places pressure on existing public facilities which are ageing and in need of upgrades. The Waverley Together 3 2013-2025 document provides the overarching strategies for these services and facilities which Council provide to the general community.

PART 3 REFERENCES

Definitions and Abbreviations

ABS	means the Australian Bureau of Statistics.
Act	means the <i>Environmental Planning and Assessment Act 1979</i> .
Council	means Waverley Council.
Levy	means a levy under s7.12 of the Act authorised by this Plan.
Material Public Benefit	does not include the payment of a monetary contribution or the dedication of land free of cost.
Minister	means the Minister administering the Act.
Public benefit	is the benefit enjoyed by the public as a consequence of a development contribution.
Public facility	means a public amenity or public service.
Regulation	means the <i>Environmental Planning and Assessment Regulation 2000</i> .

SCHEDULE 1 – COST SUMMARY REPORT



SECTION 7.11 COST SUMMARY REPORT

DEVELOPMENT COST LESS THAN \$500,000

APPLICANT DETAILS *(It is important that we are able to contact you if more information is needed)*

Name (or Company): _____

Postal Address: _____

_____ Postcode: _____

Phone No. (Daytime): _____ Mobile No.: _____

E-mail: _____ Contact Person (If a Company): _____

APPLICATION DESCRIPTION *(This will help us to correctly identify the subject property)*

Development Application No.: _____ Date Approved: _____

Development Address: _____

ANALYSIS OF DEVELOPMENT 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	
Electrical 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	\$ _____
Goods and Services tax	
TOTAL DEVELOPMENT COST	\$ _____

I certify that I have:

- Inspected the plans the subject of the application for development consent
- Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulations 2000 at current prices
- Included GST in the calculation of development cost.

Signature: _____ Date: _____

Position and Qualifications: _____

SCHEDULE 2 - DETAILED COST REPORT

REGISTERED* QUANTITY SURVEYOR'S DETAILED COST REPORT



DEVELOPMENT COST OF \$500,000 OR MORE

* A member of the Australian Institute of Quantity Surveyors

APPLICANT DETAILS *(It is important that we are able to contact you if more information is needed)*

Name (or Company): _____

Postal Address: _____

Postcode: _____

Phone No. (Daytime): _____ Mobile No.: _____

E-mail: _____ Contact Person (if a Company): _____

APPLICATION DESCRIPTION *(This will help us to correctly identify the subject property)*

Development Application No.: _____ Date Approved: _____

Development Address: _____

DEVELOPMENT DETAILS

Site Area:	sqm	Gross Floor Area – Residential:	sqm
Gross Floor Area – Retail:	sqm	Gross Floor Area – Other:	sqm
Gross Floor Area – Commercial:	sqm	Total Gross Floor Area:	sqm
Gross Floor Area – Parking:	sqm	Total Number of Car Parking Spaces	

ESTIMATE DETAILS

Area of Work	Cost of Construction (\$)	Cost (\$)
Demolition and Site Preparation		/sqm of site area
Excavation		/sqm of site area
Construction - Retail		/sqm of retail area
Construction – Commercial		/sqm of commercial area
Construction – Residential		/sqm of residential area
Fitout – Retail		/sqm of retail area
Fitout – Commercial		/sqm of commercial area
Fitout - Residential		/sqm of residential area
Carpark		/sqm of parking area /car space
Professional Fees	\$	% of construction cost
TOTAL CONSTRUCTION COST	\$	% of development cost
TOTAL GST	\$	
TOTAL DEVELOPMENT COST	\$	

I certify that I have:

- Inspected the plans the subject of the application for development consent;
- 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 clause 25J of the *Environmental Planning and Assessment Regulations 2000* 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 Areas in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signature: _____ Date: _____

Position and Qualifications: _____

ATTACHMENT 1

MINISTERIAL DIRECTIONS

The current Ministerial Directions and their application are outlined in the following table. For more information, refer to the website of the Department of Planning & Environment: www.planning.nsw.gov.au

Direction	Date Issued	Applies to this plan
Prohibition on s7.12 levy where a s7.11 contribution is required	14 October 2016	Yes
Exemption from payment of a contribution for land within the lease areas of Port Botany and Port Kembla	6 December 2013	No
Exemption from payment of a contribution for land within the lease area of the Port of Newcastle	2014	No
Pitt Town Residential Precinct (Hawkesbury Council) – exclusion of certain items from contributions levied	24 September 2013	No
Amendment to the Direction relating to the capping of s7.11 contributions for residential development	19 June 2013	No
Capping of s7.11 contributions for residential development at \$20,000/dwelling for infill and \$30,000 for greenfields development	21 August 2012	No
Environmental Planning and Assessment (Local Infrastructure Contributions – Warriewood Valley) Revocation Direction 2015	22 February 2015	No
Exemption from payment of a contribution for development carried out under the Seniors Living SEPP where undertaken by a social housing provider	14 September 2007	Yes
Exemption from payment of a contribution for development funded under the Building the Education Revolution (BER) program	9 September 2009	Revoked
Development for which a s7.12 contribution cannot be applied and maximum percentage that can be applied	10 November 2006	Revoked