

Upper Hunter Shire Council

S94A Development Contributions Plan 2008

Contents

PART 1 Administration & Operation of Plan	2
PART 2 Expected Development & Facilities Demand	19
Schedule1 Works Schedule	20
Schedule 2 Cost Summary Report	23
Schedule 3 Detailed Cost Report	25

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REVISION		DATE
A	Table to Clause 8 amended in accordance with Council resolution.	18 April 2011
B	Definition of replacement dwelling amended in accordance with Council resolution	29 January 2013

Upper Hunter Council S94A Levy Contributions Plan 2008

PART 1 Administration and operation

1 What is the name of this Plan?

This Plan is called *Upper Hunter Shire Council S94A Development Contributions Plan 2008*.

2 When does this Plan commence?

This Plan commences on 1st July 2008

3 Purposes of this Plan

The purposes of this Plan are:

- to authorise the Council to impose, as a condition of development consent, 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 a condition authorised by this Plan.

4 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.
- (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 Land to which this Plan applies

This Plan applies to all land within the Council's local government area.

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 in respect of development on land to which this Plan applies.

7 Continuation of existing s94 plans

This Plan does not repeal any s94 plans applying in the Council's local government area and those s94 plans continue to apply to all development to which they are stated to apply.

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

Subject to the Act and to any direction of the Minister under section 94E of the Act that is in force from time to time, this Plan authorises the Council to grant consent to development of the type specified in Column 1 of the Table to this clause, subject to a condition requiring the applicant to pay to the Council a levy of a percentage of the proposed cost of carrying out the development specified in Column 2 of that Table opposite that development.

If a Ministerial direction under s94E 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.

Table

Column 1	Column 2
Type of Development	Amount of Levy
All development (where the proposed cost of carrying out the development is less than \$100,000).	0.0%
Residential development of, or in relation to, a single dwelling house on a single allotment (where the proposed cost of carrying out the development is between \$100,001 and \$200,000). *Excludes replacement dwelling.	0.5%
<ul style="list-style-type: none"> • Other Residential development (eg duplex, flats and multiple units) • Industrial development. • Commercial development. • Any other non-residential development. Where the proposed cost for carrying	0.5%

<p>out the development is between \$100,001 and \$200,000</p>	
<ul style="list-style-type: none"> • Residential development • Industrial development. • Commercial development. • Any other non-residential development. Where the proposed cost for carrying out the development exceeds \$200,000 <p>*Excludes replacement dwelling.</p>	<p>1.0%</p>

* A replacement dwelling is defined for the purposes of this plan as being a single dwelling which replaces an existing single dwelling and where the cost of carrying out the development does not exceed \$300,000.

Alterations and additions to an existing single dwelling up to \$300,000 are also exempt from the levy.

Irrespective of the proposed cost in accordance with the section 94E direction the levy cannot be imposed on development:

- for the purpose of disabled access
- for the sole purpose of 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, or
- other than the subdivision of land, where a condition under section 94 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.

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

Subject to the Act and 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 specified in Column 1 to the Table to clause 8, subject to a condition requiring the applicant to pay to the Council a levy of a percentage of the proposed cost of carrying out the development specified in Column 2 of that Table opposite that development..

If a Ministerial direction under s94E 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.

10 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) 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 persons 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.

11 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 quarterly 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:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

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.

CP1 = the *Consumer Price Index All Group Index Number for Sydney* at the date the original development cost was estimated by the Council.

12 The Council may require cost estimate reports to accompany a development application or application for a complying development certificate

The Council reserves the right to require that a development application or an application for a complying development certificate be accompanied by a 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 Regulation.

The following types of report are required:

- where the estimate of the proposed cost of carrying out the development is less than \$1,000,000 - a cost summary report in accordance with Schedule 2; or
- where the estimate of the proposed cost of carrying out the development is \$1,000,000 or more - a detailed cost report in accordance with Schedule 3.

13 Who may provide a report for the purposes of clause 12 of this Plan?

For the purpose of clause 25J(2) of the Regulation, the following persons are approved by the 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 \$1,000,000 - a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report; or
- where the proposed development cost is \$1,000,000 or more - a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.

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.

14 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 one or more of the public facilities that will be or have been provided within the area as listed in Schedule 1.

The locations of those facilities are shown on the maps accompanying this Plan.



Figure 1. Scone



Figure 2. Aberdeen



Figure 3. Murrurundi



Figure 4. Merriwa

15 Are there priorities for the expenditure of money obtained from levies authorised by this Plan?

Subject to s93E(2) of the Act and clause 16 of this Plan, the public facilities listed in Schedule 1 are to be provided in accordance with the staging set out in that Schedule.

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 in accordance with the staging set out in that Schedule.

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 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 in respect of the development under Part 4A of the Act.

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 unless specifically approved by resolution following consideration at a Council meeting.

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) and may consider matters such as, but not limited to, the following:

- whether the applicant's offer is consistent with the aims and objectives of the Plan and any other relevant planning controls, policies or strategies,
 - whether the applicant's offer would allow the purpose for which the public facility is intended to be used and the intended timing and manner of its provision to be met in an effective manner, and
 - whether the applicant has provided the council with the specification and costings for construction work that are acceptable to the council.
- ***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) and may consider matters such as, but not limited to, the following:

- whether the applicant's offer is consistent with the aims and objectives of the Plan and any other relevant planning controls, policies or strategies,
 - whether the applicant's offer would allow the purpose for which the public facility is intended to be used and the intended timing and manner of its provision to be met in an effective manner, and
 - whether the applicant has provided the council with the specification and costings for construction work that are acceptable to the council.
- ***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.

Applicants should refer to the Council's *Policy on Planning Agreements*, which has been prepared having regard to the Practice Note on Planning Agreements contained in the *Revised Development Contributions Manual* (DIPNR 2005), and should consider matters such as, but not limited to, the following:

- whether the applicant's offer is consistent with the aims and objectives of the Plan and any other relevant planning controls, policies or strategies,
- whether the applicant's offer would allow the purpose for which the public facility is intended to be used and the intended timing and manner of its provision to be met in an effective manner, and
- whether the applicant has provided the Council with specifications and costings for construction work that are acceptable to the Council.

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 Upper Hunter Shire Council,

development contributions means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act.

levy means a levy under s94A of the Act authorised by this Plan.

Plan means this plan.

public facility means a public amenity or public service.

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

s94 plan means a contributions plan made pursuant to section 94B of the Act.

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

This part of the Plan broadly identifies the expected types of development in the Council's local government area that are linked to the demand for additional public amenities and services. The relationship is based upon current demographic information together with key trends in commercial, industrial and employment generating development expected in the local government area.

The Upper Hunter local government area continues to experience one of the highest inland growth rates in NSW. Population growth is currently 0.25% to 0.5% over the next 25 years. Based upon data from the Australian Bureau of Statistics, the Hunter Valley Research Foundation and Council's own statistical analysis of approved developments, the current population of 13,880 people is expected to increase to 15,400 people by 2032.

Significant employment generation brings with it increasing demands on the local infrastructure network.

The likely population growth, together with new commercial, industrial and other employment generating developments will place increasing pressure on existing public amenities and services as well as creating the demand for new facilities. This additional growth will also diminish the enjoyment and standard of public facilities for the existing population unless additional or augmented facilities are provided to meet the additional demand.

The proposed Section 94A levy will enable Council to provide additional public facilities to meet these expected demands. The type of public facilities to be provided are set out in Schedule 1.

Schedule 1

(Clause 14)

Works Schedule

Public facilities for which levies will be sought

ID	Category	Description
1	Open Space And Recreation	Aberdeen Jefferson Park
2	Open Space And Recreation	Merriwa Ovals
3	Open Space And Recreation	Merriwa Parks
4	Open Space And Recreation	Murrurundi Wilson Memorial Oval
5	Open Space And Recreation	Murrurundi Parks
6	Open Space And Recreation	Scone Park
7	Open Space And Recreation	New Play Equipment Apex Park Merriwa
8	Open Space And Recreation	Scone Sports Complex: Construct Viewing Area
9	Open Space And Recreation	Murrurundi Swimming Pool
10	Open Space And Recreation	Scone Swimming Pool
11	Open Space And Recreation	Merriwa Swimming Pool
12	Open Space And Recreation	Indoor Swimming Facility
13	Open Space And Recreation	Indoor Equine Arena (White Park)
14	Civil Infrastructure	Aberdeen Hall

15	Civil Infrastructure	Murrurundi RSL Hall
16	Civil Infrastructure	Murrurundi Playgroup Hall
17	Civil Infrastructure	Merriwa School of Arts
18	Civil Infrastructure	Cassilis Community Centre
19	Civil Infrastructure	Woolooma Recreation Centre
20	Civil Infrastructure	Settlement Hall
21	Civil Infrastructure	Senior Citizens Centre
22	Civil Infrastructure	Administration Centre and Council Chambers
23	Public Toilets	Blandford Park (New)
24	Public Toilets	Merriwa Oval Male Toilet Block
25	Footpaths/Cycleways	New Footpaths
26	Footpaths/Cycleways	New Cycleways
27	Footpaths/Cycleways	Disabled Ramp Installation
28	Road and Street Infrastructure	Local Rural Roads
29	Road and Street Infrastructure	Urban Streets (Shoulder Initial Seal - Stormwater Improvement)
30	Road and Street Infrastructure	Urban Streets (Initial Seal)
31	Road and Street Infrastructure	Street lighting
32	Road and Street Infrastructure	Bus Shelters
33	Bushfire Fighting	New Brigade Station at: Cassilis
34	Bushfire Fighting	New Brigade Station at: Collaroy
35	Bushfire Fighting	New Brigade Station at: Thornthwaite
36	Bushfire Fighting	New Brigade Station at: Elerston
37	Bushfire Fighting	New Brigade Station at: Parkville
38	Community Facilities	Aberdeen Branch Library

39	Community Facilities	Scone Library
40	Community Facilities	Murrurundi Library
41	Community Facilities	Merriwa/Cassilis
42	Community Facilities	New Youth Centre Building (Scone)
43	Community Facilities	Upgrade Existing Building (Scone)
44	Community Facilities	Merriwa Youth Centre
45	Community Facilities	Murrurundi Youth Centre
46	Community Facilities	Skate Park Development (Scone)

Schedule 2

(Clause 12)

Cost Summary Report*

(Development Cost no greater than \$1,000,000)

DEVELOPMENT APPLICATION NO.

COMPLYING DEVELOPMENT APPLICATION NO.

CONSTRUCTION CERTIFICATE NO.

DATE

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

ANALYSIS OF DEVELOPMENT COSTS:

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor finishes	\$	External services	\$
Ceiling finishes	\$	Other related work	\$

Fittings and equipment	\$	Sub-total	\$
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Sub-total above carried forward	\$
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 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 & Qualifications: _____

Date: _____

*Acknowledgment to City of Sydney for use of the Cost Summary Report

Schedule 3

(Clause 12)

Detailed Cost Report*

Registered* Quantity Surveyor's Detailed Cost Report

(development cost in excess of \$1,000,000)

*A member of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION NO.

COMPLYING DEVELOPMENT APPLICATION NO.

CONSTRUCTION CERTIFICATE NO.

DATE

APPLICANT'S NAME:

APPLICANT'S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

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

Total GST	\$
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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 square metre of site area	\$ /m ²	Cost per space	\$ /m ²
Construction – Commercial	\$	Fit-out – Commercial	\$
Cost per square metre of site area	\$ /m ²	Cost per square metre of commercial area	\$ /m ²
Construction – Residential	\$	Fit-out – Residential	\$
Cost per square metre of residential area	\$ /m ²	Cost per square metre of residential area	\$ /m ²
Construction – Retail	\$	Fit-out – retail	\$
Cost per square metre of retail area	\$ /m ²	Cost per square metre 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 Upper Hunter 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 1, Appendix A2.

Signed: _____

Name: _____

Position & Qualifications: _____

Date: _____

*Acknowledgment to City of Sydney for use of the Detailed Cost Report