

Temora Shire Council

Developer Contributions Plan 2022

Fixed development consent levy under Section 7.12 of the Environmental Planning and Assessment Act 1979

Contents:

Part 1 – Administration & Operation of Plan	p. 2
Part 2 – Expected Development & Facilities Demand	p. 8
Schedule 1 – Works Schedule	p. 9
Schedule 2 – Detailed Works Description	p. 11

Dated Adopted by Temora Shire Council:

Plan commences: 24 November 2022

In brief:

This plan replaces the previous Developer Contributions Plan 2020.

Temora Shire Council collects a levy on all development valued over \$100,000 occurring in Temora Shire. There is no requirement for nexus to be established between the development section 7.12 is levied against and object of the expenditure of that levy. Temora Shire Council expends money levied under section 7.12 on value add projects which have whole of community benefit such as parks, recreation facilities, Temora main street improvements, transport facility improvements and stormwater drainage improvement works. Projects are prioritised and funded as money becomes available, meaning that there are always projects being funded by section 7.12 in the Temora Shire Local Government Area.

Temora Shire Council does not have a Section 7.11 Contributions Plan.

Part 1

Administration & Operation

1.1. Name of Plan:

This Plan is called *Temora Shire Council Developer Contributions Plan 2022*.

1.2. Commencement

This Plan commences upon adoption of this Plan by Temora Shire Council.

1.3. Purpose of Plan

- 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 1.8. of this Plan;
- To require a certifying authority to impose, as a condition of issuing a complying development certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan; and
- To govern the application of money paid to the Council under a condition by this Plan.

1.4. Section 7.12 Fixed development consent levies(cf previous s 94A)

(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 7.11.

(2A) A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:

- (a) the Minister, or
- (b) a development corporation designated by the Minister to give approvals under this subsection.

(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.

1.5. Land to which this Plan Applies

This Plan applies to all land within the Temora Shire Council Local Government Area.

1.6. Development to which this Plan Applies

This Plan applies to development on land to which this Plan applies that requires development consent or a complying development certificate under the Act except:

- Development, other than the subdivision of land, where a condition under s7.12 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 and the purpose for which that condition was imposed is a purpose towards which a levy under this Plan may be applied; or
- Development involving alterations and additions to, or the rebuilding of, a building used for residential purposes or a building that is used for a purpose that is ancillary or incidental to such a purpose, unless the development involves an enlargement, expansion or intensification of the use of the building or the land on which the building is, or is proposed to be, situated.

1.7. Definitions

ABS – meaning the Australian Bureau of Statistics.

Act – meaning the *Environmental Planning & Assessment Act 1979*.

Council – meaning Temora Shire Council.

Development Contribution – meaning a development contribution required to be paid by a condition of development consent imposed pursuant to section 7.12 of the Act.

Minister – meaning the minister administering the Act.

Public Facility – meaning a public amenity or public service.

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

1.8. Payment of Levy as a Condition of Consent

Subject to any change to the Act or direction by the Minister, this Plan authorises Temora Shire Council or the consent authority to levy development in accordance with the parameters of this plan through condition of consent according to the below rates:

Proposed Cost of the Development	Maximum Percentage of the Levy
Up to \$100,000	Nil
\$100,001-\$200,000	0.5 Percent
\$200,001 +	1 Percent

1.9. Cross-boundary issues

(1) A condition may be imposed under section 7.12 for the benefit (or partly for the benefit) of an area that adjoins the local government area in which the development is to be carried out.

(2) Any monetary contribution that is required to be paid under any such condition is to be apportioned among the relevant councils—

- (a) in accordance with any joint or other contributions plan approved by those councils, or
- (b) if provision is not made for the apportionment in any such plan—in accordance with the terms of the development consent for the development.
- (3) Any dispute between the councils concerned is to be referred to the Planning Secretary and resolved in accordance with any direction given by the Planning Secretary.

1.10. Section 7.12 conditions imposed by Minister or Planning Secretary in growth centres and council areas

(1) This section applies where the Minister or the Planning Secretary, as the consent authority, imposes conditions under section 7.12 in relation to—

- (a) land within a growth centre, or
- b) other land within one or more council areas.

(2) This Division applies to land within a growth centre as if references in this Division to the area were references to the growth centre.

(3) Any monetary contribution paid in accordance with a condition under section 7.12—

(a) must be paid by the Minister or Planning Secretary to the corporation for the growth centre or to the councils of the areas concerned, and

(b) must (together with any additional amount earned from its investment) be applied within a reasonable time for the purpose for which it was levied.

(4) This section applies to the Minister as consent authority whether or not the Minister is the consent authority because it is State significant development.

1.11. Ministerial Directions

The Council will have regard to the requirements of any issued Ministerial Direction.

1.12. Planning Agreements

(1) The Council will have regard to the requirements imposed under section 7.4 – 7.10 where a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the developer) is made, under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.

1.13. Determination of the Proposed Cost of Development

In accordance with Clause 25J of the Regulation:

(1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 7.12 levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:

(a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,

(b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,

(c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.

(2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.

(3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:

(a) the cost of the land on which the development is to be carried out,

(b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,

(c) the costs associated with marketing or financing the development (including interest on any loans),

(d) the costs associated with legal work carried out or to be carried out in connection with the development,

(e) project management costs associated with the development,

(f) the cost of building insurance in respect of the development,

(g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),

(h) the costs of commercial stock inventory,

(i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,

(j) the costs of enabling access by disabled persons in respect of the development,

(k) the costs of energy and water efficiency measures associated with the development,

(l) the cost of any development that is provided as affordable housing,

(m) the costs of any development that is the adaptive reuse of a heritage item.

(4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.

(5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application

1.14. Indexation of Contribution

In accordance with Clause 25J of the Regulation:

(1) 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.

The formulae governing indexation of the proposed cost of carrying out development is:

$$IDC = ODC \times \frac{CP2}{CP1}$$

IDC= the indexed development cost

ODC= the original development cost determined by the Council

CP2= is the Consumer Price Index, All Groups Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

CP1= is the Consumer Price Index, All Groups Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of the consent.

1.15. Cost Estimate Report

A development application or an application for a complying development certificate is to 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 report is required:

- Where the estimate of the proposed cost of carrying out the development is greater than \$100,000, a cost estimate report may be required by Council.

1.16. Who may provide a Report in Accordance with Clause 1.15. of this Plan?

For the purpose of clause 25J(2) of the Regulation, a person who, in the opinion of the Council either generally or in a particular case, is suitably qualified to provide an estimate of the proposed cost of carrying out development may do so for the purposes of the report referred to in Clause 1.15. Council encourages the use of a Quantity Surveyor or industry recognised building cost indicators in the preparation of estimates for the purpose of clause 25J(2) of the Regulation. Building cost indicators are to be recognised by the Australian Institute of Building and include, but is not limited to, Reed Construction Data Publications.

The Council may, at the applicant's cost, engage a person to review a report submitted by the applicant in accordance with clause 1.16.

1.17. Application of Funds Collected

Money paid to 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. Contributions will be allocated at the rate of 50% towards community facilities and 50% drainage infrastructure.

1.18. Project Priorities

Subject to s7.3 of the Act and clause 1.19 of this Plan, the projects listed in Schedule 1 are to be provided in accordance with the staging set out in that Schedule.

1.19. Pooling of Funds

This Plan authorises money paid in accordance with the condition of development consent imposed under this Plan, to be pooled in accordance with s7.3 of the Act in respect of development within Council's area and applied progressively towards the various purposes for which such conditions were imposed.

1.20. 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 Temora Shire Council at the same time as the other documents required to be provided under clause 142(2) of the Regulation.

1.21. When is the Contribution Payable?

The contribution, or levy, is required to be paid as per the specifications of the condition which required the contribution be payable. If no time is specified, the levy must be paid prior to the first certificate issued in respect of the development under Part 6 of the Act.

1.22. Deferred or Periodic Payments.

Like other NSW Local Governments, Temora Shire Council does not allow for deferred, periodic or discounted payments of any contribution authorised under this Plan.

1.23. Alternatives to Paying the Levy.

Council can accept offers of Works in Kind or Material Public Benefit in lieu of monetary contribution required as a condition of consent.

Part 2

Expected Development & Facilities Demand

At the date of the 2021 Census, Temora Shire had a population of 6034 residents¹. The population is considered to be stable, however there are strong indications of future growth based on recent subdivisions currently under development. Whilst the population is still small in comparison to regional cities, the number of residents and its location 80km from the next largest centres, and 40-50km from other similar sized towns, generates demand for facilities and infrastructure for a stand alone community. Based on recent trends in the value of development occurring in Temora Shire, only around one-third² of all developments will be expected to pay Council a contribution under this Plan in accordance with the rates established in clause 1.8.

Money levied, will then be put towards the provision, intensification or augmentation of community facilities and infrastructure. These facilities and infrastructure are listed as Projects in Schedule 1 of this Plan. With a continued projected growth rate of approximately 1.1% per year³ and recent development rates annual revenue from this Plan in accordance with the rates established in clause 1.8. is expected to be approximately \$90,000.

As such this Plan is expected to have a life of at least 10 years from adoption. The plan shall be reviewed after 5 years to allow for review of project completion and identification of new priorities.

Projects funded under this Plan are seen as value adding to the already high amenity and liveability of Temora Shire Council; contributing to the goal of Temora Shire being a destination for liveability, migration and innovation.

Delivery of particular projects provide expected timeframes, however actual delivery may depend on securing additional funds through grants or specific budget allocation from Council.

¹ 2021 Census

² Temora Shire Council Development Contributions Options prepared for Temora Shire Council by John Kerwan on behalf of Community Development Initiatives February 2016

³ 2016 Census

Schedule 1

Works Schedule

A. Completed works for which contributions will be recouped:
Nil

B. Improvements to existing Public Facilities to be partly funded from S7.12 levies

Community Facility	Estimated Cost	S7.12 Contribution	Delivery
Main Street Upgrade	\$300,000	\$50,000	2021/22/23
Loftus Street Pedestrian Upgrade	\$210,000	\$40,000	2022/23/24
Painting Aria Park Pool	\$120,000	\$40,000	2022/23
Widen and reseal Nixon Park netball courts	\$50,000	\$25,000	2022/23
Bradley Park Upgrade	\$400,000	\$50,000	2022/23
Total community facility	\$1,085,000	\$210,000	
Drainage Infrastructure	Estimated Cost	S7.12 Contribution	Delivery
Victoria Street / Ironbark St U/G Drainage (200m) including BGW crossing (Gallipoli to Ironbark)	\$300,000	\$100,000	2023/24
Britannia Street / Hoskins Street Intersection Drainage (60m)	\$25,000	\$10,000	2023/24
Gallipoli Street (Victoria St to Timmins St 250m)	\$100,000	\$30,000	2023/24
Back Mimosa Road (1250m Drainage Channel Construction) Note: Major tree removal	\$80,000	\$20,000	2022/23 Underway

required			
Baker Street U/G Drainage (240m Victoria St to Britannia St)	\$150,000	\$45,000	2026/27
Delavan Street Box Culvert (Using Council owned culverts Ex RMS)	\$100,000	\$30,000	2025/26
Chifley Street U/G Drainage (Williams to Joffre 220m)	\$66,000	\$15,000	2026/27
Hoskins Street (Macauley to Ashelford U/G Drainage)	\$80,000	\$10,000	2025/26
Austral Street U/G Drainage (DeBoos to Aurora St) 135m	\$100,000	\$10,000	2024/25
Crowley St/Polaris St - Western Drain upgrade Crowley St to intersection of Polaris & Baker Sts	\$1,020,000	\$200,000	2028/29
Hoskins Street (Parkes to Kitchener U/G Drainage)	\$1,000,000	\$200,000	2029/30
Total drainage infrastructure	\$3,021,000	\$670,000	

Schedule 2 Detailed Community Facility Works Description

Ariah Park Playground Swing Set

Install a swing set at the playground at the Ariah Park Recreation Ground

Main Street Upgrade

Upgrade of Hoskins Street between Polaris Street and Parkes Street & Victoria Street and Britannia Street to enhance footpaths, street furniture and landscaping to complement existing upgrade of main street

Loftus Street Pedestrian Upgrade

Upgrade pedestrian access to the western side of Loftus Street, at the corner of Hoskins Street.

Painting Ariah Park Pool

Repair and painting of the lining of the Ariah Park pool

Widen and reseal Nixon Park netball courts

Upgrade of the existing netball courts at Nixon Park to meet current standards

Bradley Park Upgrade

Upgrade Bradley Park to include nature based adventure play space and improved amenities for visitors