

Bogan Shire
Section 7.12
Fixed Levy
Development
Contributions Plan
2021



Bogan Shire Council 7.12 Contribution Plan

Bogan Shire Council
81 Cobar Street
PO Box 221 Nyngan NSW 2825

Phone: (02) 6835 9000
Fax: (02) 6835 9011

Email: admin@bogan.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of printing, Bogan Shire Council and its employees disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of

Document Details:

Revision	Public Exhibition Dates	Adoption Date	Effective Date
Original	11/03/2021 - 09/04/2021	22/04/2021 - Resolution 106/2021	01/07/2021

Contents

1. Administration and Operation of the Plan	3
1.1 What is the name of this development contributions plan?	3
1.2 Application of this development contributions plan	3
1.3 When does this development contributions plan commence?	3
1.4 The purpose of this contributions plan	3
1.5 When is the levy applicable?	3
1.6 Are there any exemptions to the levy?	3
1.7 Relationship with other plans and policies	4
1.8 Pooling of levies	4
1.9 Construction certificates and the obligation of accredited certifiers	4
1.10 Complying development certificates and the obligations of accredited certifiers	4
1.11 How will the levy be calculated?	4
1.12 How will the cost of carrying out the proposed development be calculated?	5
1.13 When is the levy payable?	6
1.14 How will the levy be adjusted?	6
1.15 Can deferred or periodic payments be made?	7
2. Expected Development & Demand for Public Facilities	7
3. Works Program	7
4. References	8
5. Dictionary	8
Schedule 1 – Works Program	8

1. Administration and Operation of the Plan

1.1 What is the name of this development contributions plan?

This development contribution plan is called the Bogan Shire Section 7.12 Fixed Levy Development Contributions Plan 2021 (“the development contributions plan”).

1.2 Application of this development contributions plan

The development contributions plan applies to all land within the local government area of Bogan.

1.3 When does this development contributions plan commence?

The development contributions plan commences on 1 July 2021.

1.4 The purpose of this contributions plan

The primary purpose of the development contributions plan is:

- To authorise the imposition of a condition on all development consents and complying development certificates requiring the payment of a contribution pursuant to section 7.12 of the Environmental Planning and Assessment Act 1979 (EP&A Act);
- To assist the Bogan Shire Council (“council”) in providing the appropriate public facilities that are required to maintain and enhance amenity and service delivery within the Bogan local government area; and
- To publicly identify the purposes for which the levies are required.

1.5 When is the levy applicable?

The levy is applicable to applications for development consent and applications for complying development certificates under Part 4 of the EP&A Act, except where exempt under section 1.6 below.

The amount to be levied is:

Proposed Cost of Development	Levy (%)
Up to \$500,000	Nil
\$500,000 and above	1

1.6 Are there any exemptions to the levy?

This plan does not apply to the following types of developments:

- Where the proposed cost of carrying out the development is \$500,000 or less
- Development for the purpose of public infrastructure proposed by or on behalf of Council.
- For the sole purpose of providing affordable housing or provided by a social housing organisation.
- Development exempted from s7.12 levies by way of directions made by the Minister for Planning under s7.17 of the Act.
- Dwelling house or alterations and additions to a dwelling house or any development ordinarily incidental or ancillary to the use of the dwelling house such as swimming pools, garages, sheds and the like.

- That has been the subject of a condition under section 7.11 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.

In addition, Council will not impose a levy in respect of development for which Council considers by formal resolution at a full Council meeting as an exemption. For such applications to be considered, a comprehensive submission putting forward the case for exemption shall be submitted.

1.7 Relationship with other plans and policies

The development contributions plan supplements the provisions of the Bogan Local Environmental Plan 2011 and any amendment or local planning provisions which it may supersede.

1.8 Pooling of levies

The development contribution plan expressly authorises money obtained from section 7.12 levies paid for different purposes to be pooled and applied (progressively or otherwise) for the public facilities listed in the works program (Schedule 1) in accordance with the staging set out in that Schedule.

1.9 Construction certificates and the obligation of accredited certifiers

In accordance with clause 146 of the Environmental Planning and Assessment Regulation 2000 (“the 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 the certified plans provided to the council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

1.10 Complying development certificates and the obligations of accredited certifiers

In accordance with section 7.21 of the EP&A Act, a certifying authority (Council or an accredited certifier) must impose a condition requiring monetary contributions in accordance with the development contributions plan which satisfies the following criteria:

- Pursuant to section 4.17(1) of the EP&A Act and the development contributions plan, a levy calculated in accordance with section 1.11 below.
- The amount to be paid is to be adjusted in accordance with section 1.14 below.

1.11 How will the levy be calculated?

The levy will be calculated as follows:

$$\text{Levy Payable} = L \times \$C$$

Where:

- **L** is 0.01 where the cost of development is \$500,000 or more; and
- **\$C** is the cost of carrying out the proposed development (calculated in accordance with Section 1.12 below)

1.12 How will the cost of carrying out the proposed development be calculated?

A development application or an application for complying development certificate must submit an estimated cost of development that has been calculated in accordance with clause 25J of the EP&A Regulation.

That clause provides as follows:

25J Section 7.12 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 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.*

Without limitation to the above, council may review the estimated cost of development and may seek the services of a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors 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.

1.13 When is the levy payable?

A levy must be paid to council at the time specified in the condition on the development consent 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.

1.14 How will the levy be adjusted?

Contributions required as a condition of consent under the provisions of the development contributions plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

$$\text{Contribution at time of payment} = \$C_o + \$A$$

Where:

$\$C_o$ is the original contribution as set out in the in the consent condition; and

$\$A$ is the adjustment amount which is:

$$\frac{\$C_o \times (\text{Current Index} - \text{Base Index})}{\text{Base Index}}$$

where:

the **Current Index** is the most recent quarterly Consumer Price Index for Sydney as published by the Australian Bureau of Statistics (Ref:6401.0) at the time the levy is paid; and

the **Base Index** is the quarterly Consumer Price Index for Sydney as published by the Australian Bureau of Statistics (Ref:6401.0) for the period immediately prior to the date of the development consent.

Note: In the event that the Current Index is less than the Base Index, the contribution payable shall be that stated in the consent condition.

1.15 Can deferred or periodic payments be made?

Council does not allow deferred or periodic payments of levies authorised by the development contributions plan.

2. Expected Development & Demand for Public Facilities

The relationship between expected development and demand for public facilities is established through:

- population growth in parts of the Shire;
- the future population will require the provision of additional public facilities; and
- the future population will diminish the existing population's enjoyment and standards of public facilities unless additional facilities are provided.

Council is committed to providing the equitable distribution of public facilities for the benefit and well-being of all residents. Council's works program (Schedule 1) identifies the public amenities or services to be provided, recouped, extended or augmented by contribution monies derived by this plan.

This development contributions plan applies to all land within the local government area of Bogan Shire. The contributions levied will be applied towards meeting the cost of provision or augmentation of public facilities that have been or will be provided across the entire local government area in accordance with the works program (Schedule 1).

Department of Planning, Industry and Environment (DPIE) Circular (Ref: PS05-003) states there does not have to be a connection between the subject of the development consent levy and the object any monies derived are spend on. Consequently monies derived by this plan may be used to embellish public facilities in a location remote from that which the levy was derived (for example, in another town).

Council may also levy contributions towards the provision of water and sewerage infrastructure. These contributions are levied under Section 64 of the LGA and Sections 305, 306 and 307 of WMA, therefore are not part of this development contributions plan.

3. Works Program

The works program (Schedule 1) identifies the public facilities for which section 7.12 levies under the EP&A Act will be required.

Levies paid to council under a condition authorised by the development contributions plan will be applied towards meeting the cost of provision or augmentation of public facilities that have been or will be provided. Schedule 1 provides a summary of public facilities, which have been or will be provided by council over the next ten years, as well as the estimated cost of provision and timing.

4. References

The following reference documents have been used in the preparation of this Development Contributions Plan:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulation 2000*
- *Department of Planning, Industry and Environment – Planning Circular – Changes to the development contributions system in NSW – PS 05-003, 14 June 2005*
- *Bogan Local Environmental Plan 2011.*

5. Dictionary

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

Council means Bogan Shire Council

Development contributions plan means Bogan Section 7.12 Fixed Levy Development Contributions Plan 2021

EP&A Act means the Environmental Planning and Assessment Act 1979

EP&A Regulation means the Environmental Planning and Assessment Regulation

Levy means a levy under s7.12 of the EP&A Act authorised by the development contributions plan

LGA means Local Government Act 1993

Public facility means a public amenity or public service

WMA means Water Management Act 2000

Schedule 1 – Works Program

This plan expressly authorises section 7.12 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.

Schedule 1 – Works program

Reference	Project	Estimated Cost	Priority
1	Works related to residential subdivisions; <ul style="list-style-type: none"> Hospital Road Nyngan Hoskins Street Nyngan 	\$500 000 \$500 000	H H
	Preparation of Master Plan – Sport	\$15 000	H
	Preparation of Master Plan – Parks	\$15 000	H
	Preparation of Master Plan – Street Trees	\$15 000	H
	Preparation of Master Plan – Cemeteries	\$15 000	H
	Street lighting improvements – (various locations)*	\$35 000	M
	Street tree plantings/replacement - (various locations)*	\$35 000	M
	Footpaths and pedestrian facilities (various locations)*	\$150 000	M
	Park amenities (various locations) - including water efficiency	\$185 000	M
	Playground improvements (various locations)* including: <ul style="list-style-type: none"> Equipment, soft-fall and shade structures 	\$185 000	M
2	Swimming pool improvements including: <ul style="list-style-type: none"> Pool cover for ‘wading’ pool 	\$15 000	M
3	Library resources	\$30 000	M
4	Animal Pound improvements (Cattery)	\$25 000	M
5	Town Hall restoration and redevelopment	\$ 60 000	M
	Sporting Facilities upgrade	\$50 000	L
	Waste management improvements	\$50 000	L
	Sponsor youth holiday activities	\$15 000	L
6	Main Street pedestrian facilities and garden upgrade	\$55 000	L

- Low Priority: up to ten (10) years
- Medium Priority: Four (4) to eight (8) years
- High Priority: Zero (0) to three (3) Years

* ‘Various locations’ includes villages and localities within Bogan Shire.