



## **SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN**



**ADOPTED BY COUNCIL:  
THIS PLAN CAME INTO EFFECT ON:**

**3 December 2015  
16 December 2015**

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## Amendment History

Amendment No	Date Adopted	Date Effective	Details
Amendment 1	9 February 2022	17 February 2022	Land to which plan applies updated.

## **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 the provision, extension or augmentation of public amenities and public services. Schedule 1 provides a summary of the public facilities, which will be provided by council over the next 10 years, as well as the estimated cost of provision and timing.

## Schedule 1: Public facilities for which levies will be sought

Item	Public Facilities	Location	Estimated Costs	Target Date
1	Annual Local Road Resealing Program	Various local roads -15 year cycle	\$600,000	Annually
2	Annual Local Gravel Road Re-sheeting Program	Various local roads on a 12 year average cycle	\$550,000	Annually
3	Annual Local Road Rehabilitation Program	Sections of Lascelles St, Little River Road, Hoskinstown Rd, Plains Rd, Bungendore Rd, Burra Rd, town streets	\$600,000	Annually
4	Local Road Reconstruction Program	Sections of Butmaroo St, Malbon St, Ellendon St, Saleyards Lane, Burra Rd, Bungendore Rd, Norton Rd, town streets	\$2,500,000	By 2025
5	Annual Regional Road Resealing Program	Various local roads -12 year cycle	\$200,000	Annually
6	Annual Regional Gravel Road Re-sheeting Program	Sections of Captains Flat Rd, Nerriga Rd & Cooma Rd on a 10 year average cycle	\$100,000	Annually
7	Annual Regional Road Rehabilitation Program	Sections of Captains Flat Road, Macs Reef Rd, Nerriga Rd, Cooma Rd & Tarago Rd	\$550,000	Annually
8	Regional Road Reconstruction Program	Sections of Cooma Rd, Nerriga Rd, Macs Reef Rd, captains Flat Rd	\$10,000,000	By 2025
9	Town Pathways Construction	Various locations in Bungendore, Braidwood and Captains Flat	\$800,000	By 2025
10	Town Drainage Strategy Development and Implementation	Drainage works in Wallace St, Majara St, Ellendon St, Gibraltar St and Foxlow St & adjacent areas Captains Flat	\$1,000,000	By 2025
11	Back Creek Bridge Reconstruction	On Cooma Rd	\$1,750,000	2016/17
12	Brick Kiln Creek Bridge Reconstruction	On Cooma Rd	\$900,000	By 2020
13	Silver Hills Bridge Reconstruction	Captains Flat Road	\$500,000	By 2020
14	Foxlow St Bridge Reconstruction	Foxlow St, Captains Flat	\$500,000	By 2025
15	Braidwood Recreation Ground Redevelopment Project	Keder St	\$1,500,000	By 2020
16	Bungendore Recreation Grounds Project	Bungendore Rd	\$4,000,000	By 2020
17	Bungendore Park Master Plan Redevelopment	Gibraltar St	\$400,000	By 2022
18	Braidwood Resource Recovery Facility and Waste Transfer Station	Bombay Rd	\$3,000,000	2016/17
19	Nerriga Waste Facility	Endrick River Rd	\$400,000	By 2020
20	Royalla Hall Project	Royalla Dr	\$400,000	2018/19
21	Bungendore and Captains Flat flood mitigation works	Bungendore and Captains Flat	\$4,000,000	By 2025
22	Bungendore and Braidwood Public Carparking	Ellendon St Bungendore and Wallace St Braidwood	\$1,000,000	By 2020
23	Town Centre Streetscape Upgrading	Gibraltar St, Ellendon St, Wallace St	\$800,000	By 2020
24	Rural Bus Stops	Various	\$80,000	By 2025
25	New Braidwood Works Depot	Bombay Rd Braidwood	\$2,000,000	By 2020
	TOTAL		\$61,550,000	By 2025

A map showing the location of the works and public facilities is included in Attachment 2.

**Schedule 2: Summary Schedule for Section 94A Contributions Plan**

<b>Proposed cost of development</b>	<b>Levy (%)</b>
Proposed cost of development is \$100,000 or less	Nil
Proposed cost of development is between \$100,001 and \$200,000	0.5 % of the proposed cost of development
Proposed cost of development exceeds \$200,000	1.0 % of the proposed cost of development

## Part B – Expected development and demand for public facilities

This part broadly discusses the relationship between the expected types of development and the demand for public facilities and services to meet the needs of the development and the wider community.

The expected types of developments to be levied under this plan would include, 'state significant' and major developments (other than subdivisions) that have a construction value greater than \$100,000 and may be established within the Palerang LGA in areas outside of Bungendore and Braidwood (outside of the land use zones R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, B2 Local Centre, B4 Mixed Use and IN2 Light Industrial). Such developments would include, but would not necessarily be limited to, the following:

- Electricity Generating Works
- Tourist and Visitor Accommodation
- Mining
- Regional developments for example Telecommunication Facilities
- Industrial and Commercial developments
- Rural Industries and Intensive Livestock Agricultural Facilities

The relationship between expected development and the demand for public amenities and services is discussed below.

Palerang is a local government area (LGA) located in the Southern Tablelands region of NSW. With reference to the attached map (Attachment 1), the LGA is bounded by Goulburn-Mulwaree and Upper Lachlan LGAs to the north, Yass Valley and Queanbeyan LGAs and the Australian Capital Territory (ACT) to the west, Cooma-Monaro LGA to the south and Shoalhaven and Eurobodalla LGAs to the east.

It has a population of 15,510 (ABS, 2014, Estimated Resident Population) residing in a variety of development forms and covers an area of approximately 5,200 km<sup>2</sup>. Palerang has three established towns, Bungendore, Braidwood and Captains Flat, several rural villages and a large proportion of the population living in rural residential dwellings located in the western portions of the LGA near the ACT border.

Palerang Council area is one of the fastest growing LGAs in Australia. The Australian Bureau of Statistics reported on its website in June 2012 that the local government area with the highest proportionate increase in population in New South Wales was Palerang, which grew 16.5 per cent to 14,351 people from 12,313 in 2006.

Population projections undertaken by the NSW Department of Planning and Environment indicate likely growth to 19,100 by 2026 (2014). Council will have to make significant financial investments in infrastructure and public facilities to meet the demands of this growth.

The types of development covered by this plan will employ significant numbers of workers during construction and operation stages and are likely to cause significant increases in the resident population beyond the expected growth without these major developments.

These developments are also likely to have a significant impact on the Palerang road network which will have to carry extra traffic and cater for the impact of light and heavy vehicle movements to and from these developments.

It is reasonable therefore that these developments should contribute, via a Section 94A levy, to infrastructure and services provision for items such as roads and bridges, traffic facilities, waste facilities, CBD carparking, town centre streetscape projects, public buildings, cycleways, footpaths, sporting grounds and recreational facilities that will be utilized by such developments and their contractors and employees. Otherwise, the likely activity and population growth resulting from these developments will diminish the existing population's enjoyment and standards of public facilities.

## 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:

*Palerang Council Section 94A Development Contributions Plan (November 2015)*

### 1.2 Application of this Plan

This plan applies to all land within the local government area of Palerang outside of the town boundaries of Bungendore and Braidwood (land use zones excluding R1 General Residential, R2 Low Density Residential, R5 Large Lot Residential, B2 Local Centre, B4 Mixed Use and IN2 Light Industrial land use zones.) It will be applied to State Significant and other major developments, excluding subdivisions.

Subdivisions and development within the town boundaries of Bungendore and Braidwood will

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 the date that notice of the adoption of the plan appears in a local newspaper. This date will be indicated on the front cover of this plan once notice is given.

### 1.4 What is the purpose of the contributions plan?

The primary purposes of this contributions plan are:

- to authorize 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 access for people with a disability 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 unless the proposed works increase demand on Council infrastructure ;
- for subdivisions and residential development including new dwellings, renovations and extensions to family homes and dual occupancy developments. Development contributions for residential development and subdivisions will be levied under Council's section 94 plans, as appropriate.

## 1.6 Pooling of levies

This plan expressly authorizes 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?

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 Appendix A 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 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.

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 persons with a disability 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.

### **1.9 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 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 following formula:

$$\text{Contribution at time of Payment} = \$Co + (\$Co \times [\text{Current Index} - \text{Base Index}])$$

Where	
\$Co	is the original contribution as set out in the consent?
Current Index	is the CPI for Canberra as published by the Bureau of Statistics available at the time of review of the contribution rate?
Base Index	is the CPI for Canberra as published by the Bureau of Statistics at the date the original development cost was estimated by Council?

Note: In the event that the Current CPI is less than the previous CPI, the Current CPI shall be taken as not less than the previous CPI.

### 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.

### 1.12 Continuation of Existing Section 94 Plans

This plan does not repeal any Section 94 Development Contributions Plans already in force in the Palerang LGA, and those existing S94 Plans will continue to be applied to developments other than the developments which are the subject of this S94A Plan.

## 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 person's 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 Palerang 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 utilized in the preparation of this Section 94A Plan:

- *Palerang Local Environment Plan 2014*
- Palerang Council Community Strategic Plan and Delivery Plan 2013-2017
- 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*
- Palerang Council – Asset Management Plan
- Roads to Recovery Funding 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 \$500,000.
- A Quantity Surveyor's Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value greater than \$500,000.

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.

While the following examples are for building projects, a similar itemization method will be required to detail the individual cost components for Cost Summaries involving other non-building construction developments, such as those listed under Part B above.

## Sample Cost Summary Report

Development Cost no greater than \$500,000

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 \$500,000
- 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 <sup>2</sup>
Gross Floor Area - Residential	m <sup>2</sup>
Gross Floor Area - Retail	m <sup>2</sup>
Gross Floor Area - Car Parking	m <sup>2</sup>
Gross Floor Area - Industrial	m <sup>2</sup>
Gross Floor Area - Other	m <sup>2</sup>
Total Gross Floor Area	m <sup>2</sup>
Total Site Area	m <sup>2</sup>
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 <sup>2</sup>
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$ / m <sup>2</sup>
Cost per m <sup>2</sup> of site area	\$ / m <sup>2</sup>	Cost per space	\$ /space
Construction - Commercial	\$	Fit-out - Commercial	\$
Cost per m <sup>2</sup> of commercial area	\$ / m <sup>2</sup>	Cost per m <sup>2</sup> of commercial area	\$ / m <sup>2</sup>
Construction - Residential	\$	Fit-out - Residential	\$
Cost per m <sup>2</sup> of residential area	\$ / m <sup>2</sup>	Cost per m <sup>2</sup> of residential area	\$ /m <sup>2</sup>
Construction - Retail	\$	Fit-out - Retail	\$
Cost per m <sup>2</sup> of retail area	\$ / m <sup>2</sup>	Cost per m <sup>2</sup> of retail area	\$ / m <sup>2</sup>

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, AppendixA2.

Signed: .....

Name: .....

Position and Qualifications: .....

Date: .....

# Attachment 1 – Palerang Local Government Area



Attachment 2 – Location of Works and Facilities

