

Armidale Regional Council
Section 7.12
Contributions Plan 2018 –
2022 Revision

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Armidale Regional Council Section 7.12 Contributions Plan 2018 Produced by:
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1. Executive Summary

1.1 Background

1.1.1. What are development contributions?

Development contributions are contributions made by those undertaking development approved under the Environmental Planning and Assessment Act 1979 (the Act). Contributions may be in the form of money, the dedication of land or some other material public benefit (or a combination of these). The mechanisms available for development contributions are limited to:

In the case of contributions made under Sections 7.11 or 7.12 of the Act - toward the provision or improvement of amenities or services (or the recouping of the cost of provision or improvement of amenities or services), or

In the case of contributions made under a planning agreement prepared in accordance with sections 7.4 to 7.10 of the Act toward public purposes.

The Plan deals with Section 7.12 contributions.

1.1.2. Section 7.11 and 7.12 levies

Sections 7.11 and 7.12 of the Act provide Council the means to levy contributions towards the cost of public facilities and services to meet the increased demand created by development. In the case of Section 7.11 contributions, there has to be a direct nexus between the development being levied under section 7.11 and the need for the public amenity or service (infrastructure) for which the contribution is required. Section 7.12 contributions do not require a nexus between the development, infrastructure and the contribution.

A condition of development consent may be imposed by Council under a Section 7.12 contribution plan with a requirement that the applicant pay a levy based on a percentage of the proposed cost of carrying out the development. A condition under Section 7.12 that is allowed by and determined in accordance with a contributions plan may not be disallowed or amended by the Court on appeal.

The monies collected will assist Council towards the provision, extension or augmentation of public amenities or public services. The application of the money is subject to any relevant provision of the Contribution Plan and the Works Schedule at Appendix 1.

1.2 Purpose

The purpose of this Contributions Plan is:

- To authorise the Council to impose a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 7.12 of the Act;
- To require a certifying authority (the Council or an accredited private certifier) 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;
- To assist the Council to provide public facilities and amenities which are required to maintain and enhance amenity and service delivery within the area;
- To state the purposes for which the levies are required, and
- To provide for the governance of the contributions and their application in accordance with the Act and Regulations.

1.3 Timescales identified in the plan

This Plan aims to cater for development to 2028. It is anticipated that the Plan will be reviewed in the intervening period and updated.

Council recognises that demographic change in the existing and new population is driving changes in the demand for public services and amenities, and accordingly this Plan seeks to respond to these future needs.

The Work Schedule in this Plan is based on the provision of public facilities in key locations across the LGA with amounts located based on expected development, the population of each location and the demand for new or augmented public amenities and facilities.

1.4 Summary of facilities

This Plan seeks contributions towards the following categories of public services and facilities:

- Public Assets and related infrastructure.
- Pedestrian and cycling Infrastructure.
- Open Space and Recreation.
- Civic and community facilities.

1.5 Summary of contribution rates

The contribution rate is calculated as a percentage of the cost of development, as per the table below.

Cost of Development	Contribution levy rate %
All development valued at \$100,000 or less	0.0%
All development valued at \$100,001 up to \$200,000	0.5%
All development valued in excess of \$200,000	1.0%

Certain exemptions apply to the Contribution. Details can be found in Section 3.13.

1.6 Work schedule

The Work Schedules can be found in Appendix 1 to this Plan.

2. Introduction

2.1 Name of the Plan

This Plan is the Armidale Regional Council Section 7.12 Contributions Plan 2018.

This Contributions Plan has been prepared in accordance with the Environmental Planning and Assessment Act 1979 (the Act), the Environmental Planning and Assessment Regulation 2000 (the Regulation), the then Department of Planning and Infrastructure's Development Contributions Practice Notes 2005, relevant Ministerial Directions, and Department of Planning and Environment Circulars and Guidelines.

2.2 Commencement of Plan

This Contributions Plan takes effect on 1 November 2018.

Development applications and applications for complying development certificates determined on or after this date will be subject to the provisions of this Plan.

2.3 Savings and transitional arrangements

A development or complying development application which has been submitted prior to the adoption of this Plan but not determined shall be determined in accordance with the provisions of the Plan which applied at the date of determination of the application.

2.4 Purpose of the Plan

The purpose of this Contributions Plan is:

- To authorise the Council to impose a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to Section 7.12 of the Act;
- To require a certifying authority (the Council or an accredited private certifier) 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;
- To assist the Council to provide public facilities and amenities which are required to maintain and enhance amenity and service delivery within the area;
- To state the purposes for which the levies are required, and
- To provide for the governance of the contributions and their application in accordance with the Act and Regulations.

2.5 Area to Which the Plan Applies

This Contributions Plan applies to all land within the Armidale Regional Council Local Government Area

2.6 Types of Development to which this Plan applies

This Plan applies to all applications for development consent and complying development certificates on the land to which the Plan applies.

Development types also include (but are not limited to):

- Solar Energy Developments
- Wind Energy Developments
- Hydroelectricity Energy Developments

- Battery Storage Developments
- Regional Developments
- State Significant Developments

Note: “development” referred to in this clause has the same meaning as in the Act.

2.7 What does Section 7.12 of the Act provide?

Section 7.12 of the Act provides as follows:

7.12. 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 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.

2.8 Relationship to other Plans and Policies

This Plan supersedes and repeals the following current contributions plans applying to the local government area by amending and/or repeal the following:

- Armidale Contributions Plan 1993- former Armidale City Local Government Area
- Dumaresq Section 94 Development Contributions Plan 1993 – former Dumaresq Shire Local Government Area
- Armidale Contributions Plan No.2 1992 Rockvale Rd footpath/road widening
- Armidale Contributions Plan No.1 1993 Footpath Grafton and Canambe Road
- Armidale Contributions Plan No.4 1993 Footpath Northcott and Munro Streets
- Armidale Contributions Plan No.1 1996 Link Road pedestrian cycleway
- Armidale Dumaresq Development Contributions Plan 2013 Macdonald Drive shared pathway
- Armidale Dumaresq Development Contributions Plan 2013 Cookes Road Bridge Upgrade
- Guyra Section 94A Plan 2006

This Plan complements the Armidale Regional Council Section 7.11 Contributions Plan 2018 - Heavy Vehicles. Aspects of development to which the Section 7.11 Plan applies are not to be levied contributions under the Section 7.12 Plan 2018.

Unspent contributions raised and paid under the authority of the previous Section 94 or 94A Contributions Plans:

- will be continued to be directed towards achieving the outcomes sought by the respective facilities and infrastructure described in the Work Schedule of those Plans. Where items from the previous Section 94 or 94A Contributions Plans have continued in the Armidale Regional Council Section 7.12 Plan 2018, those funds are to be reallocated towards the relevant facilities and infrastructure in the Works Schedule of this Plan, or
- will be redirected towards other facilities and infrastructure to those described in the Works Schedules of this Plan. These facilities and infrastructure will achieve the same or similar outcomes sought by the previous Section 94 or 94A Plan. The reallocation of funds received under the previous Plans to facilities and infrastructure in the Works Schedule in this Plan is shown in Appendix 3.

2.9 Infrastructure and Growth

At the 27 January 2022 Ordinary Council Meeting the Council resolved to set an aspirational target to grow jobs in the Armidale Regional LGA by 4000 by 2040 and generate at least 1000 new jobs over the next 5 years. As part of the resolution it was identified that the way to achieve this was to provide the region building infrastructure as a catalyst for job growth projects that will maximise the regions potential.

The vision noted that if the Armidale Regional LGA is to succeed it will need a jobs growth strategy based on catalyst projects such as leveraging the renewal of the Armidale and Guyra Central Business Districts which will assist in the attraction of sustainable industries drawing on our future role as Australia’s largest renewable energy community, and expanding opportunities for intensive horticultural enterprises. Accordingly, it was identified that among other matters, the development of the regions cultural infrastructure is important in ensuring that that we can offer a lifestyle proposition that is second to none.

At a presentation to Council in February 2022, Macroplan Consultants provided a Population Growth and Dwelling Demand forecast for the region, which compares DPE estimates against a ‘Base Case’ estimate based on Macroplan research and an ‘Aspirational’ estimate which could be realised if the vision set by Council in January 2022 was achieved.

The below tables show that in each scenario there is growth expected across the regional areas and townships within the LGA. Importantly, ARC should plan for growth and should consider the aspirational growth scenario as a feasible growth projection, accordingly if Council follows its aspirational growth targets there is a likelihood that these targets could be achieved.

Armidale Region Actual and Projected POPULATION (Source Macroplan, 2022):

	2021	2026	2031	2036	2041	2046	2052
Armidale Regional LGA							
DPE (2019)	29,500	32,300	34,100	35,600	36,900	37,500	38,300
Macroplan Base Case	29,500	32,600	34,900	36,700	38,500	39,900	41,600
Macroplan Aspirational	29,500	32,600	35,600	38,300	41,300	44,000	47,400
Armidale City							

Macroplan Base Case	24,200	27,100	29,300	30,900	32,700	34,000	35,500
Macroplan Aspirational	24,200	27,100	30,000	32,500	35,300	37,700	40,900
Guyra Township							
Macroplan Base Case	2,400	2,600	2,700	2,900	3,000	3,100	3,200
Macroplan Aspirational	2,400	2,600	2,800	3,000	3,200	3,400	3,600

Armidale Region Actual and Projected DWELLINGS (Source Macroplan, 2022):

	2021	2026	2031	2036	2041	2046	2052
Armidale Regional LGA							
DPE (2019)	12,100	13,400	14,000	14,700	15,300	15,600	16,100
Macroplan Base Case	12,100	13,600	14,300	15,100	16,000	16,700	17,500
Macroplan Aspirational	12,100	13,600	14,600	15,800	17,100	18,400	20,000
Armidale City							
DPE (2022)	9,800	9,800	10,100	10,300	10,700		
Macroplan Base Case	9,800	11,000	11,900	12,600	13,400	14,000	14,800
Macroplan Aspirational	9,800	11,000	12,200	13,200	14,400	15,500	17,000
Guyra Township							
Macroplan Base Case	1,000	1,100	1,100	1,200	1,300	1,300	1,400
Macroplan Aspirational	1,000	1,100	1,200	1,300	1,300	1,400	1,500

3. Operation of the Plan

3.1 Payment of the contribution

This Plan authorises Council to require the payment of a monetary contribution as a condition of development consent in accordance with the provisions of this Plan.

Contributions will be determined on the basis of the proposed cost of development. Section 208 of the Environmental Planning and Assessment Regulation 2021 provides details of inclusions and exclusions from the cost calculations, as follows:

208 Determination of proposed cost of development—the Act, s 7.12(5)(a)

- (1) The proposed cost of carrying out development must be determined by the consent authority by adding up all the costs and expenses that have been or will be incurred by the applicant in carrying out the development.
- (2) The costs of carrying out development include the costs of, and costs incidental to, the following—
 - (a) if the development involves the erection of a building or the carrying out of engineering or construction work—
 - (i) erecting the building or carrying out the work, and
 - (ii) demolition, excavation and site preparation, decontamination or remediation,
 - (b) if the development involves a change of use of land—doing anything necessary to enable the use of the land to be changed,
 - (c) if the development involves the subdivision of land—preparing, executing and registering—
 - (i) the plan of subdivision, and
 - (ii) the related covenants, easements or other rights.
- (3) In determining the proposed cost, a consent authority may consider an estimate of the proposed cost that is prepared by a person, or a person of a class, approved by the consent authority to provide the estimate.
- (4) The following costs and expenses must not be included in an estimate or determination of the proposed cost—
 - (a) the cost of the land on which the development will be carried out,
 - (b) the costs of repairs to a building or works on the land that will be kept in connection with the development,
 - (c) the costs associated with marketing or financing the development, including interest on 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 for the development,
 - (g) the costs of fittings and furnishings, including refitting or refurbishing, associated with the development, except if the development involves an enlargement, expansion or intensification of a current use of land,
 - (h) the costs of commercial stock inventory,
 - (i) the taxes, levies or charges, excluding GST, paid or payable in connection with the development by or under a law,
 - (j) the costs of enabling access by people with disability to the development,
 - (k) the costs of energy and water efficiency measures associated with the development,

- (l) the costs of development that is provided as affordable housing,
- (m) the costs of development that is the adaptive reuse of a heritage item.

(5) The proposed cost may be adjusted before payment of a development levy, as specified in a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan between the day on which the proposed cost was determined by the consent authority and the day by which the development levy must be paid.

Example—

A contributions plan may adopt the Consumer Price Index.

(6) To avoid doubt, this section does not affect the determination of the fee payable for a development application.

Applicants are advised to consult the Regulation for any changes in the above list, which was current on 6 October 2022.

3.2 Calculation of the contribution

The contribution will be calculated as follows:

Levy payable = %C x \$C

Where

%C is the levy rate applicable

\$C is the proposed cost of carrying out the development as certified.

3.3 Contribution Rate

The contribution rate is calculated as a percentage of the development value, as per the table below.

Cost of Development	Contribution levy rate%
All development valued at \$100,000 or less	0.0%
All development valued at \$100,001 up to \$200,000	0.5%
All development valued in excess of \$200,000	1.0%

Certain types of development may be exempt from a section 7.12 contribution. Details can be found in Section 3.13.

3.4 Cost estimate reports

In order to enable the amount of the contribution to be accurately determined, a cost estimate report must accompany an application for a development application or a complying development certificate.

A development application, or subdivision certificate application, or application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying of the development.

A cost summary report must be completed for works with a value no greater than \$ 3,000,000;

A Quantity Surveyor’s Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value greater than \$ 3,000,000, and example cost estimate reports have been included in Appendix 4. Applicants can use alternate cost estimation methods as agreed to by Council.

Without limitation to the above, Council may review the valuation or 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, complying development certificate or subdivision

certificate will be issued until such time that the levy has been paid.

3.5 Complying Development

In accordance with Section 156 of the Environmental Planning and Assessment Regulation Accredited Certifiers must impose a condition requiring monetary contributions in accordance with this Plan, in accordance with Section 7.12 of the Environmental Planning and Assessment Act. The amount of the contribution is to be determined in accordance with the formulas contained in this Plan. The conditions imposed must be consistent with Council's standard Section 7.12 consent conditions and be in accordance with this Plan. It is the responsibility of accredited certifiers to correctly calculate the contribution and apply the Section 7.12 contribution.

Complying Development Certificates must be assessed and issued by Council if the developer wishes Council to consider land dedication, material public benefits or works in kind.

3.6 Construction Certificates

In accordance with Clause 156 of the Environmental Planning and Assessment Regulation, a certifying authority must not issue a construction certificate for building work or subdivision works under development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions 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 156(2) of the Environmental Planning and Assessment Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exception to this requirement is where works in kind, material public benefit, dedication of land or deferred arrangement has been agreed by the Council. In such cases the Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

3.7 Alternatives to Payment

Council may accept an offer by the applicant to provide an "in-kind" contribution (i.e. the applicant completes part or all of work/s identified in the plan) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this plan. The decision to accept such offers is at the sole discretion of the Council.

Council may accept such alternatives when made as an offer as part of a development application.

The applicant may include in the relevant development application or in an application for a modification under section 4.55 of the Act, an offer to carry out works or provide a material public benefit towards which the levy is to be applied. The Council will consider the offer as part of its assessment of the development application or as an application for a modification to a development approval under section 4.55 of the Act where a levy has been imposed pursuant to this plan. If the Council agrees to the arrangement and grants consent to the application, it will substitute a condition of consent requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under section 7.12.

In assessing the applicant's offer, the Council will have regard to any relevant requirements of the current Practice Note issued by the NSW Government and such other matters as the Council considers relevant in the circumstances of the case including, but not limited to:

- The value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan. Council does not issue credits to applicants for works in kind which are provided in excess of the approved condition outside of a standard procedure involving approval by Council, such as staged development; and
- The standard of the works is to Council's full satisfaction and the works are handed over to the Council at completion without restriction of limitation, and
- The provision of the material public benefit will not prejudice the timing or the manner of the provision of public facilities included in the works program.

The value of an offer to provide Works in Kind, or a material public benefit towards which the levy is to be applied, in lieu (in full or in part) of satisfying a condition of consent relating to payment of a Section 7.12 contribution will be valued utilising the following mechanism:

- Any credit will be calculated based on the actual cost of works or the agreed cost estimate, whichever is the lesser. The agreed cost estimate will be determined by a review of the costs submitted by the applicant via Council's Service Delivery Group (or a Registered Quantity Surveyor at Councils discretion);
- The agreed cost estimate can be amended by submission of a variation request by the applicant which will be reviewed and certified by a registered Quantity Surveyor;
- The actual cost of works is required to be evidenced and verified by a registered Quantity Surveyor;
- The Quantity Surveyor to act on the project will be chosen by Council from a list of 3 recommended by the applicant all of whom are to be members of Panels for The NSW Department of Finance, Services and Innovation or Local Government Procurement, and
- Quantity Surveyor service costs are to be borne by the applicant.

3.7.1. Legal agreements pertaining to works in kind

All offers, should they be accepted, to provide Works In Kind, or a material public benefit towards which the levy is to be applied, in lieu (in full or in part) of satisfying a condition of consent relating to payment of a Section 7.12 contribution will be subject to a legal agreement between Council and the applicant. All agreements will include, but not limited to, the following:

- The works to be undertaken;
- The timing of the works;
- The quality of the works;
- The costs of the works;
- Handover and signoff by Council;
- The applicant's rights and responsibilities, and
- Council's rights and responsibilities.

3.7.2. Planning Agreements

An applicant may offer to enter into a Planning Agreement with the Council in connection with a development application or a rezoning application that is made for the purposes of being able to subsequently make a development application. The applicant's provision under a Planning Agreement may be additional to, or instead of, making contributions under Section 7.12 of the Act.

Provision is made for Planning Agreements under Section 7.4 of the Environmental Planning and Assessment Act 1979, as amended.

Under a Planning Agreement, the applicant may offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes.

The offer to enter into a Planning Agreement, together with the draft Agreement, will generally need to accompany the relevant development or rezoning application. The Council will publicly notify the draft Agreement and explanatory note relating to the draft Agreement along with the relevant application and will consider the Agreement as part of its assessment of the relevant application. If the Council agrees to enter into the Agreement, it may impose a condition of development consent requiring the Agreement to be entered into and performed.

Council encourages the use of Planning Agreements, particularly for larger and/or more complex development.

3.8 Reassessment of Contributions

Council may consider an application for the reassessment of the development monetary contribution payable. This may result in the contribution being reduced or waived or modified.

Where a condition of development consent has already been imposed requiring the payment of a contribution, the applicant will be required to lodge an application to review the consent in accordance with Section 8.3 of the Environmental Planning and Assessment Act 1979, as amended, to reassess the contribution charged.

The request shall be in writing and provide sufficient information to satisfy Council of the inappropriate nature of the contribution and the implications to Council of reducing or waiving the contribution in the particular circumstances.

3.9 Are refunds for payments of levies possible?

For a refund of levy payments to be considered, the applicant/landowner must:

- Submit a written request to Council;
- In the request demonstrate that the development has not been commenced;
- Submit the request for a refund by the first working day after 31 January within the year following payment of the levy e.g. payment is made in April 2017 then a refund request cannot be made until first working day after 31 January 2018; and
- Formally surrender the consent that applied the levy.

Part or full refunds may only be provided in circumstances that are considered reasonable and where a formal request has been made. The decision to provide part or full refunds will always be the subject of a report to an appropriate meeting of Council.

3.10 Adjusting Contributions at the Time of Payment

This provision aims to ensure that the value of contributions is not eroded over time by movements in the Consumer Price Index, land value increases, the capital costs of construction of facilities and administration of the Plan, or through changes in the costs of studies to support the Plan.

Contributions required as a condition of development consent will be adjusted at the time of payment using the following formula.

$$CP = \frac{ODC \times \text{Current index}}{\text{Base index}}$$

where:

- CP is the amount of the contribution calculated at the time of payment.
- ODC is the amount of the original contribution as set out in the development consent.
- Current index the Consumer Price Index: All Groups Index for Sydney (as currently available from the Australian Bureau of Statistics at the time of payment).
- Base index is the Consumer Price Index: All Groups Index for Sydney which applied at the time of calculation as shown on the development consent.

3.11 Payment of Contributions

3.11.1. Timing of Payments

The time of payment of contributions shall be as follows:

- Development applications involving subdivision only – prior to the release of the Subdivision Certificate.
- Development applications involving building work only – prior to the release of the Construction Certificate or Complying Development Certificate;
- Development involving both subdivision and building work (e.g. Integrated housing developments) – prior to the release of the Construction Certificate, or the release of the Subdivision Certificate, whichever occurs first, and
- Development applications where no Construction Certificate is required – prior to the issue of an Occupation Certificate.

Where an application is dealt with by an Accredited Certifier other than Council, the development consent shall not operate unless and until the amount required by the consent under this Contributions Plan is paid to Council.

The amount of any monetary contribution to be paid will be the contribution payable at the time of consent,

and depending upon the time of payment will be subject to reasonable adjustment due to movements in the Consumer Price Index and/or changes to the rates indicated within this Plan (refer to Section 3.10).

3.11.2. Deferred or Periodic Payments

Council may consider the deferred payment of contributions or payments made by periodic instalments. This will be a merit based decision, considered on a case by case basis and subject to approval by Council.

A request for deferral or periodic payment must be made in writing to Council, stating the proposed length of deferral, and may only be accepted where:

- There are valid reasons for the deferral or periodic payment;
- The deferral will not prejudice the efficiency and operation or cash flows of the Plan;
- The granting of the request for deferred payment will not jeopardise the timely provision of works or land identified within the Plan;
- A suitable bank guarantee (or equivalent security) can be, and is, provided in the event that the request is accepted by Council;
- Where the applicant intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution, and Council and the applicant have a legally binding agreement for the provision of the works or land dedication, and
- The periodic or deferred contributions are paid, including interest, at no cost to Council.

The conditions under which Council may accept deferred payment by way of a bank guarantee are that:

- The bank guarantee is by an Australian Bank;
- Indexing will be calculated from the date the contribution was due until the date of payment.
- The bank guarantee is for a maximum period of twelve months.
- The amount of the bank guarantee is the sum of the total contribution or the amount of the outstanding contribution at the time of deferring payment, plus an amount equal to thirteen months' interest;
- The bank unconditionally pays the guaranteed sum to Council if Council so demands in writing, no earlier than 12 months from the provision of the guarantee or completion of the work, whichever occurs first;
- 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 in accordance with the development consent;
- The bank's obligations are discharged when payment to the Council is made in accordance with the approved bank guarantee or when Council notifies the bank in writing that the guarantee is no longer required, and
- Council's registration and release of bank guarantee fee is paid.

Any outstanding component of the contribution shall be indexed quarterly in accordance with the Consumer Price Index movements. Indexing will be calculated from the date the contribution was due until the date of payment.

The conditions under which Council may accept periodic payment for a staged development are:

- That the instalments are paid before the work commences on each relevant stage of the development, and
- The amount to be paid at each stage is to be calculated on a pro-rata basis in proportion to the demand for the relevant facility being levied by the overall development, including CPI if required.

3.12 Goods and Services Tax

Monetary Section 7.12 development contributions are exempt from the Federal Government Goods and Services Tax (GST).

3.13 Exemptions

Under Directions issued by the Minister in relation to Section 7.17 of the Act a levy under section 7.12 cannot be imposed on development:

- If a development contribution under former section 94 of the *Environmental Planning and Assessment Act 1979* has been required in respect of the subdivision of land (*initial subdivision*), a levy under section 7.12 of that Act may not be required in respect of any other development on the land, unless that other development will, or is likely to, increase the demand for public amenities or public services beyond the increase in demand attributable to the initial subdivision, and

In addition, certain types of development are effectively exempt from a levy under Section 7.12 because they are not to be included in the costing of a development for the purposes of a levy under Section 208 of the Regulation, including:

- enabling access by disabled persons in respect of the development,
- energy and water efficiency measures associated with the development,
- any development that is provided as affordable housing,
- any development that is the adaptive reuse of a heritage item.
- any development that Council deems has adequately satisfied the provisions of Part 2, Section 2.5 of DCP Chapter 2.3 - European Heritage.

Council also may not impose a Section 7.12 levy on the following:

- An application on or behalf of Council for infrastructure, including that funded by Section 7.11 or 7.12 of the Act, such as but not limited to libraries, community facilities, recreation areas, recreation facilities and car parks;
- An application for development that involves rebuilding or repair after natural disasters such as flooding or bushfires;
- An application for demolition (where there is no replacement building or development), and
- In rare exceptional cases, where Council considers an exemption is warranted, and the decision is made by formal resolution of Council at an Ordinary Council meeting.

To apply for an exemption to the payment of a Section 7.12 Levy, a written application must be submitted to Council at development assessment stage, giving reasons under the relevant category, and providing any necessary evidence and justification for the exemption.

3.14 Review of the Plan

This Plan may be reviewed in full, or in part, when considered appropriate having regard to the rate and type of development, cost of facility provision, and community response to service and facility provision.

A complete review of this Plan is anticipated every five (5) years from the date of commencement of the Plan.

3.15 Accountability

Financial management and accountability are important components of Section 7.12, and Council is obliged to maintain an accurate and up to date register of all Section 7.12 contributions. Council is required to comply with a range of financial accountability and public access to information requirements in relation to section 7.12. These are addressed in Division 4 of Part 9 of the Regulation and include:

- Maintenance of, and public access to, a contributions register;
- Maintenance of, and public access to, accounting records for contributions received and spent;
- Annual financial reporting of contributions, and
- Public access to contributions plans and supporting documents.

Monetary contributions received under the authority of this Plan will be recorded and kept through a separate account specifically established for this Plan. The records will indicate the contributions received, contributions expended and include the interest, if any, earned on invested funds for each account.

These records are updated on a monthly basis.

Separate accounting records are maintained for all Council's Section 7.11 and Section 7.12 Contribution Plans. Information on Section 94 accounts and funds relating to this Plan will be provided in a condensed format within Armidale Regional Council's Annual Report/s in accordance with requirements of the Regulation

Information is also available in Council's contribution register relating to this Plan, which can be inspected at Council during normal business hours.

3.16 Unspent Section 94 funds

This Plan also authorises that unspent monies collected through the previous Section 94 or 94A Plans are to be expended on works identified in the works schedules included in the Appendices of this Plan, or the Works Schedule of the Section 7.12 Plan, to achieve the same or similar outcomes sought by the previous Section 94 or 94A Plan.

3.17 Application of the Funds

Money paid to the Council under a condition authorised by this plan is to be applied by the Council towards meeting the cost of the public amenities or services that will be or have been provided within the area as listed in the Works Schedule at Appendix 1.

3.18 Pooling of Contributions

Pursuant to section 7.12 (1)(g) of the EP&A Act 1979, this Plan expressly authorises monetary Section 7.12 Contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the contributions are shown in the Works Schedules.

3.19 Condition of Consent

Unless otherwise determined by Council, or directed by the NSW Government, the standard condition described in Appendix 6 will be used on Development Application determinations and Complying Development Certificates for monetary contributions levied under this Plan.

Appendix 1: Works Schedule

Location	Expected Works	Estimated Annual Expenditure (total expenditure)
Armidale & Surrounds	Streetscape Works, Mall Activation Works, Creekland Works, Footpath & Cycleway Works, Biodiversity & Green Corridors, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$700,000 (\$3.5M)
Guyra & Surrounds	Streetscape Works, Footpath & Cycleway Works, Biodiversity & Green Corridors, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$300,000 (\$1.5M)
Ben Lomond Village & Surrounds	Streetscape works, Footpath & cycleway works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$80,000 (\$400,000)
Ebor Village & Surrounds	Streetscape works, Footpath works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$80,000 (\$400,000)
Hillgrove Village & Surrounds	Streetscape works, Footpath works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$80,000 (\$400,000)
Wollomombi Village & Surrounds	Streetscape works, Footpath works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$80,000 (\$400,000)
Black Mountain Village and Surrounds	Streetscape works, Footpath and cycleway works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$80,000 (\$400,000)
Llangothlin Village & Surrounds	Streetscape works, Footpath and cycleway works, Heritage activation and conservation, Connectivity links, tourist activities, strategic land purchase & uses, recreation works,	\$40,000 (\$200,000)

The Works Schedule is based on an average annual expenditure and the total cost of expected works over the life of the plan, this being 2028 when the next review is expected. The works plan does not have any priorities for works or expenditure.

Appendix 2: Land to which this plan applies

This Plan applies to the all land in the Armidale Regional Council local government area.

Appendix 3: Previous Plans - unspent fund reallocation

Unspent funds received under previous section 94 or 94A Contributions Plans will be reallocated to similar facilities in the Works Schedule that maintain a nexus to the development to which the funds were collected. Funds are to be reallocated as follows:

Previous Plan – facility in works schedule	ARC Section 7.12 Plan – facility in works schedule
Armidale Contributions Plan 1993 – purchase and embellish land as bushland reserve, Box Hill Drive	Purchase Scholes Street bushland reserve, Armidale – recoupment
Armidale Contributions Plan 1993 – carparking – Hanna’s carpark extra deck, Rusden Street	Car parking, 124-126 Allingham Street, Armidale
Dumaresq Shire Section 94 Contributions Plan 1993 (as amended) – open space: Dumaresq School site – tennis court, picnic facilities, toilet block, fencing Purchase 4 hectares to establish a West Armidale Reserve	Dumaresq Dam embellishment - BBQ covered area, tables, seating, and wildlife viewing platform

Whilst the facilities in the above works schedule are not strictly mentioned in the revised works schedule, all previous facilities are capable of being funded under the new works schedule. However it is noted that the Scholes Street reserve recoupment has already occurred and the Dumaresq Dam Embellishment has been allocated funding using 7.12 contributions under the 2022-23 FY budgets. Accordingly any unspent funding reallocations will be pooled and assigned to other projects which align with the revised works schedule.

Appendix 4: Sample Cost Summary Report

[Development between \$100K and \$ 3 million]

DA / CC / CDC No.	Date
Applicant Name	_____
Applicant's Address	_____
Property 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	\$ _____
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 & Assessment Regulation 2000 at current prices.
- Included GST in the calculation of development cost.

Signed
Name
Position
Qualification
Date

Appendix 5: Sample Quantity Surveyor's* Detailed Cost Report

[Development in excess of \$ 3 million]

*A member of the Australian Institute of Quantity Surveyors

DA / CC / CDC No.	Date
Applicant Name	_____
Applicant's Address	_____
Property 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	_____ m ²
Total Development Cost	\$ _____		
Total Construction Cost	\$ _____		
Total GST	\$ _____		

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	\$ _____ /space
Construction – Commercial	\$ _____	Fit-out – Commercial	\$ _____
Cost per square metre of commercial area	\$ _____ /m ²	Cost per m ² of commercial area	\$ _____ /m ²
Construction – Residential	\$ _____	Fit-out – Residential	\$ _____
Cost per square metre of residential area	\$ _____ /m ²	Cost per m ² of residential area	\$ _____ /m ²
Construction – Retail	\$ _____	Fit-out – Retail	\$ _____
Cost per square metre of retail area	\$ _____ /m ²	Cost per m ² of retail area	\$ _____ /m ²

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 & Assessment Regulation 2000 at current prices.
- Included GST in the calculation of development cost.

Signed

Name

Position

Qualification

Date

Appendix 6: Standard Condition

A contribution is to be paid to Council towards the provision or improvement of public facilities (as per ARC's section 7.12 Contributions Plan 2018).

Proposed Cost of Development *	Levy Percentage	Total Contribution	Note
			<i>Contribution Rate remains current until first date of next quarter</i>

*Proposed cost of carrying out the development less any credits which may apply.

Contributions are indexed quarterly at the beginning of each new quarter.

Contribution fees can be paid online on Council's website or in person to the cashier at Council's offices. For online payments select PAYMENTS/Application Payments and enter your payment reference (provided at the end of this consent).