

Cabonne Council

Section 7.12

Development Contributions Plan

2022



Cabonne Council Section 7.12 Contributions Plan

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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 7.4-7.10 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 provides Cabonne Council (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 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;
- 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;
- Assist the Council to provide public facilities and amenities which are required to maintain and enhance amenity and service delivery within the area;
- State the purposes for which the levies are required, and
- 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 2030. 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 “high”, “medium” and “low” priorities, which translate into target implementation periods of 2022-2024, 2025-2028, and 2029-2031 respectively.

1.4 Summary of facilities

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

- Road Transport
- Pedestrian Ways and Share Pathways

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

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

1.6 Work schedule

The Work Schedule can be found in Appendix 1 to this Plan, and a map showing the location of these works in Appendix 2.

2. Introduction

2.1 Name of the Plan

This Plan is the Cabonne Section 7.12 Contributions Plan 2022.

This Contributions Plan has been prepared in accordance with the Environmental Planning and Assessment Act 1979 (the Act), the Environmental Planning and Assessment Regulation 2021 (the Regulation), the NSW Department of Environment And Planning Section 7.12 Fixed Development Consent Levies Practice Note 2021, the then Department of Planning and Infrastructure's Development Contributions Practice Notes 2005, relevant Ministerial Directions, and relevant NSW Department of Environment and Planning Circulars and Guidelines.

2.2 Commencement of Plan

This Contributions Plan takes effect on 17 October 2022.

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

2.2.1. 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.

2.3 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 Regulation.

2.4 Area to Which the Plan Applies

This Contributions Plan applies to all land within the Cabonne Local Government Area.

2.5 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.

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

2.6 What does Section 7.12 of the Act provide?

Section 7.12 of the Act provides as follows:

7.12. Fixed development consent levies

- (4) 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) The Regulation 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.

2.7 Relationship to other Plans and Policies

This Plan replaces the Cabonne Shire Council Section 94 (7.11) Plans and their successors. This Plan complements the Cabonne Shire Council Section 7.11 Contributions Plan 2022- Heavy Vehicles.

Unspent contributions raised and paid under the authority of the previous Contributions Plans will be transferred to this Section 7.12 Plan and will be continued to be directed towards achieving the outcomes sought by the Work Schedule of those Plans.

2.8 Infrastructure and Growth

The Central West and Orana Regional Plan 2036 states the following priorities for Cabonne Shire:

- Maintain and enhance the economic diversity of Cabonne's towns, villages and commercial centres.
- Support villages to attract appropriate development.
- Support the mining and agribusiness sectors and associated businesses through land use planning policies.
- Protect agricultural land from encroachment from residential development.
- Support the connectivity of the local, regional and state transport network.

- Leverage opportunities from the Local Government Area’s rural character to diversify the economy in areas such as tourism.

Council has identified:

- The strong growth within the region expanding from Orange in the east and Parkes in the west will give opportunities for Cabonne to leverage off this and identify strategic areas within our shire for growth.
- At the same time will be projected growth in our older population, with 36% of the population over the age of 55 by 2036. Diverse housing will be needed in response.
- From an economic perspective, growth in agribusiness and tourism are important sectors for growth. Mining and minerals is another sector of potential growth.

The development of road infrastructure is very important to achieve this objective priorities. Good roads are needed to support agriculture, mining, and tourism, as well as link the villages and towns of the Shire.

The NSW Department of Environment and Planning produced updated population estimates and forecasts in 2022.

The projection included household numbers, dwelling numbers and household size, and are shown in the table below.

It can be seen that the DoPIE 2022 projections indicate that the population of the LGA will continue to increase to 2041. Development and change will occur in the Shire, and some towns and villages will benefit from migration from rural areas. In addition, changing demographics of the area will lead to increased demand in certain infrastructure.

This Plan is based on meeting the anticipated needs for infrastructure created by development in response to changes in the demographic and economic change in the community. Over the 20 year period from 2021 to 2041, the growth in population of Cabonne Shire will see an increase of 197 residents due to natural increase (births less deaths), and an in migration of 1,676 (arrivals less departures).

Because of a decline in the number of people living in each dwelling (occupancy rates), the number of additional dwellings will need to increase a a greater rate than the increase in population.

The incoming population will likely to be focussed in and around the larger towns and villages, particularly Molong. As a result, infrastructure funded through this Plan will be largely directed to these growth areas, and the links between them.

| | | 2011 | 2016 | 2021 | 2026 | 2031 | 2036 | 2041 |
|--------------------------------|-------------------------|--------|--------|--------|--------|--------|--------|--------|
| 2041 Cabonne Shire | 2016 projection (DoPIE) | 13,211 | 13,577 | 13,783 | 14,291 | 14,447 | 15,222 | 15,657 |
| Average Household Size (DoPIE) | | | 2.60 | 2.55 | 2.54 | 2.52 | 2.50 | 2.47 |
| Implied Dwellings (DoPIE) | | | 5923 | 6117 | 6375 | 6659 | 6933 | 7208 |

The Cabonne Shire Local Strategic Planning Statement reflects the Cabonne Shire Community Strategic Plan, and in turn this Plan reflects the resultant priorities expressed in Council's vision, delivery program, operational plan and strategic asset management plan.

This Development Contributions Plan has formulated within the above context of development reinforcing existing urban centres, building on the economic and natural assets of the area, and responding to demographic and economic change.

3. Operation of the Plan

3.1 Payment of the contribution

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

- (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.

Applicants are advised to consult the Regulation for any changes in the above list.

3.2 Calculation of the contribution

The contribution 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 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 an application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out the development.

A cost summary report must be completed for works with a value no greater than \$3,000,000. For works of value greater than \$3,000,000, a Quantity Surveyor’s Detailed Cost Report must be completed by a registered Quantity Surveyor.

Example cost estimate reports have been included in Appendix 3 & 4. Applicants can use alternate cost estimation methods by prior agreement with 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 will be issued until such time that the levy has been paid.

3.5 Complying Development

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, and Clause 156 of the Regulation. 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. Payment for the contribution is to be made before the commencement of any building work or subdivision work authorised by the Certificate.

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

Clause 156 (2) of the Regulation states a complying development certificate that authorises development for a relevant purpose must be issued subject to the following conditions—

- (a) the condition required by Section 4.28(9) of the Act requiring payment of a monetary section 7.11 contribution or a section 7.12 levy,
- (b) the contribution or levy must be paid before the work authorised by the certificate commences.

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 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 to Council (or a Registered Quantity Surveyor, at Council's 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 8.2 of the Act, 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 2021 then a refund request cannot be made until first working day after 31 January 2022; 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 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).

In the case of developments with an estimated construction cost of \$10 million or more (as indicated in the development application), if the certifier is an accredited certifier (rather than a council) an application for an occupation certificate must include a document from the relevant council or the Planning Secretary (where special infrastructure contributions are required) certifying that a contribution or levy under section 7.11, 7.12 or 7.24 of the Act, is:

- Not required at any time before the issue of an occupation certificate, or
- Required before the issue of an occupation certificate and the requirement has been met.

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 7.3 of the Act a levy under section 7.12 cannot be imposed on development:

- If a development contribution under the former Section 94 or 7.11 of the Act 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 Clause 208 of the Regulation, such as:

- Land on which the development is to be carried out.
- Repairs to any building or works on the land that are to be retained in connection with the development.
- Marketing or financing the development (including interest on any loans).
- Legal work carried out or to be carried out in connection with the development.
- Project management associated with the development.
- Building insurance in respect of the development.
- 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).
- Commercial stock inventory.
- Taxes, levies or charges (other than GST) paid or payable in connection with the development.
- Enabling access by disabled persons in respect of the development.
- Energy and water efficiency measures associated with the development.
- Development that is provided as affordable housing (note: affordable housing is defined by the Act.).
- Development that is the adaptive reuse of a heritage item.

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

- An application on or behalf of Council for infrastructure, such as but not limited to libraries, community facilities, recreation areas, recreation facilities and car parks;
- Those the subject of a Direction from the Minister for Planning under Section 7.3 of the Act.
- 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),
- 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 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 7.11/7.12 and former 94 accounts including funds relating to this Plan will be provided in a condensed format within Cabonne Shire 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.

Pursuant to the Regulation Council will undertake:

- Online publication of contributions registers, contributions plans, and annual statements.
- Reporting on money, land, and works-in-kind received in s7.11 and s7.12 contributions in annual statements.
- Additional details in contributions registers including but not limited to description of development and DA information.

3.16 Unspent Section 94A funds

This Plan also authorises that unspent monies collected through the previous development contributions plans are to be expended on works identified in the works schedules included in this Plan, to achieve the same or similar outcomes sought by the previous Plans.

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

The Minister has directed that If a local council holds monetary contributions that have been paid for different purposes, including for purposes identified in more than one contributions plan that applies in the local government area concerned, the council is to endeavour to pool those contributions, and apply them progressively, in order to facilitate the provision of the public amenities and public services to which any of those contributions plans relate.

This Plan authorises the pooling of contributions from this Plan, consistent with the Minister’s direction.

3.19 Condition of Consent

Unless otherwise determined by the Council, the standard condition described in Appendix 5 will be used on Development Application determinations and Complying Development Certificates for monetary contributions levied under this Plan.

Appendix 1: Works Schedule

Note: Projects are alphabetical order by place, not in priority order, within each priority (timing) category. The project cost estimate shown will not necessarily be entirely sourced through development contributions, and will be supplemented by grant funds and/or Council general funds depending on the circumstances that arise from time to time..

| | Project Name | Description | Location | Cost Estimate (\$) | Priority |
|----|--|--|------------|--------------------|----------|
| 1 | Banjo Paterson Way Widening (0 to 750) | Road widening and pavement strengthening | Molong | 455,000 | High |
| 2 | Cargo Road Widening (2,250 to 3,250) | Road widening and pavement strengthening | Nashdale | 500,000 | High |
| 3 | Cargo Road Widening (3,250 to 4,250) | Road widening and pavement strengthening | Nashdale | 500,000 | High |
| 4 | Parkes/Boree Streets Footpath (Orange to Loftus) | New Footpath (2.0m wide) | Manildra | 60,000 | High |
| 5 | Banjo Paterson Way Widening (3,842 to 5,342) | Road widening and pavement strengthening | Molong | 750,000 | Medium |
| 6 | Belubula Way Widening (1,822 to 2,572) | Road widening and pavement strengthening | Canowindra | 470,000 | Medium |
| 7 | Rodd Street Footpath (Ferguson to Finn) | New footpath (2.0m wide) | Canowindra | 75,000 | Medium |
| 8 | Wall Street Footpath (Toogong to Long) | New Footpath (2.0m wide) | Cudal | 90,000 | Medium |
| 9 | Lucknow Street Footpath (Obley to Sports Ground) | New Footpath (2.0m wide) | Yeoval | 85,000 | Medium |
| 10 | Church Street Footpath (Belmore to Brooks) | New footpath (2.0m wide) | Cargo | 70,000 | Low |
| 11 | McLaughlan Street Footpath (Sports Precinct to Showground) | New Footpath (2.5m wide) | Cumnock | 200,000 | Low |
| 12 | Mandagery Creek Walk (Broad to Sportsground) | New Footpath (2.5m wide) | Eugowra | 90,000 | Low |
| 13 | Phillip Street Footpath (Wellington to Molong) | New Footpath (2.0m wide) | Molong | 80,000 | Low |

The Work Schedule in this Plan is based on “high”, “medium” and “low” priorities, which translate into target implementation periods of 2022-2025, 2026-2029, and 2030-2033 respectively.

Appendix 2: Location of works maps

Numbers reference the project number in the Work Schedule.

MAPS TO BE INSERTED

Appendix 3: 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 208 of the Environmental Planning & Assessment Regulation 2021 at current prices.
- Included GST in the calculation of development cost.

Signed

Name

Position

Qualifications

Date

Appendix 4: 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 | \$ /m2 | Cost per m2 of residential area | \$ /m2 |
| Construction – Retail | \$ | Fit-out – Retail | \$ |
| Cost per square metre of retail area | \$ /m2 | Cost per m2 of retail area | \$ /m2 |

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 208 of the Environmental Planning & Assessment Regulation 2021 at current prices.
- Included GST in the calculation of development cost.

Signed

Name

Position

Qualification

Date

Appendix 5: Standard Condition

Sample section 7.12 contribution condition

Condition ##

Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the [Cabonne Shire Council Section 7.12 Contributions Plan 2021, a contribution of \$[insert total amount] must be paid to Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the Cabonne Shire Council Section 7.12 Contributions Plan 2021 Section 7.12 Development Contributions Plan. The contribution is to be paid before [insert requirement].

The Cabonne Shire Council Section 7.12 Contributions Plan 2021, adopted on <insert date>, which may be viewed during office hours at Council’s Customer Service Centres, or on Council’s website <http://www.cabonne.nsw.gov.au>

The contribution payable will be calculated in accordance with the Contributions Plan current at the time of payment, and will be adjusted at the time of payment in accordance with the Consumer Price Index (CPI) (All Groups Index for Sydney) published by the Australian Bureau of Statistic (ABS). Contribution amounts will be adjusted by Council each quarter.

| Contribution Type | Proposed Cost of Development ¹ | Levy Percentage | Total Contribution | Contribution Rate remains current until* |
|---------------------------|---|-----------------|--------------------|--|
| Section 7.12 Contribution | | | | |

Notes

¹ As shown on the Development Application / Construction Certificate Application / Complying Development Certificate Application.