



Walcha Council Section 7.12 Contribution Plan

2022

S7.12 Contributions Plan for Walcha Council Contributions Plan 2022

DRAFT

Version History:

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Walcha Council Section 7.12 Contributions Plan

1.1 Name of Plan

This contributions Plan is called the Walcha Council Section 7.12 Contributions Plan 2012 (Plan).

1.2 Application of this Plan

This Plan applies to all land within the local government area of **Walcha Council Local Government Area (Area)**.

1.3 Development to Which this Plan Applies

This Plan applies to applications for development consent and applications for complying development certificates to be made by or under the *Environmental Planning and Assessment Act, 1979 (Act)* in respect of development on land to which the Plan applies.

1.4 Purpose of Contributions Plan

The primary purposes of this Plan are:

- to authorise the imposition of a condition on certain development consents requiring the payment of a levy determined in accordance with this Plan
- to require a certifying authority (Council or an accredited certifier) to impose, as a condition on a complying development certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan
- to govern the application of money paid to Council under a condition authorised by this Plan
- to assist Council to provide the appropriate public amenities and services required to maintain and enhance amenity and service delivery within the Area

1.5 Plan Commencement

This contributions Plan takes effect on the date on which public notice of the decision to approve the plan or a later day specified in the notice was published, pursuant to Clause 214 of the *Environmental Planning and Assessment Regulation 2021*.

1.6 Development to Which this Plan Applies

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

- Development, other than the subdivision of land, where a condition under s7.12 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out and the purpose for which that condition was imposed is a purpose towards which a levy under this Plan may be applied.

1.7 Payment of Levy as Condition of Consent

This Plan authorises Council or the consent authority to grant consent to development to which this Plan applies subject to the payment of a levy based on the proposed cost of carrying out the development, **provided that** Council or the consent authority does not also impose on the consent a condition pursuant to s7.11 of the Act.

The levy is set by s209(2) of the *Environmental Planning & Assessment Regulation 2021* and is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 Percent
More than \$200,000	1.0 percent

Conditions authorised by this Plan are subject to any direction given by the Minister under s7.17 of the Act from time to time, and this Plan authorises the imposition of conditions which are in accordance with any such direction.

Any direction given by the Minister under s7.17 of the Act and in force from time to time may be attached to this Plan, but does not form part of this Plan for the purposes of the Act.

1.8 Application of Levy

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

Maps showing areas for which specific public amenities and public services are to be provided is contained in Schedule 3.

Subject to s7.3(2) of the Act and clause 1.12 of this Plan, the public amenities and public services listed in Schedule 1 are to be provided in accordance with the staging set out in that Schedule.

1.9 Levy Exemptions

Council may exempt the following kinds of developments from the levy authorised to be imposed under this Plan:

- a development by a registered charity, community organisation or service club that will, in the opinion of Council, provide a material public benefit to the Walcha Council community.

For such claims to be considered, any such development will need to include a comprehensive submission arguing the case for an exemption and include details of the mechanism ensuring that such development is, and will remain in the form proposed.

1.10 Pooling of Levies

This Plan authorises money paid in accordance with the condition of development consent imposed under this Plan, to be pooled in accordance with s7.3 of the Act in respect of development within Council's area and applied progressively towards the various purposes listed in Schedule 1 for which such conditions were imposed.

1.11 Construction Certificates & Obligations of Accredited Certifiers

In accordance with clause 146 of *the Environmental Planning and Assessment Regulation 2021*, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified Plans provided to Council in accordance with clause 142(2) of the Regulation. Failure to follow this procedure may render such a certificate invalid.

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

1.12 Determination of Proposed Development Cost

Development Cost under \$250,000

The cost of development for the purpose of calculating the levy shall be based on the cost in the signed contract with a licensed builder and/or the construction cost provided for the Long Service

Levy payment applicable to the whole development and if applicable, the Home Warranty Insurance documentation. Where such a contract price cannot be provided, a signed cost summary report as in **Appendix 2** shall be prepared and submitted with the payment.

Development Cost between \$250,001 and \$1,000,000

A cost summary report shall be prepared by competent person based on contract pricing, quotes, and/or experience in typical building costs to allow the development value to be determined for the purpose of calculating the contributions. The required cost summary report format is provided as in **Appendix 2** and shall be prepared and submitted with the payment.

The cost summary report shall include the costs in the signed contract with a licensed builder and/or the construction cost provided for the Long Service Levy payment applicable to the whole development and if applicable, the Home Warranty Insurance documentation.

Development Cost greater than \$1,000,001

A detailed cost summary of the development shall be undertaken by a quantity survey for developments valued at \$1,000,001 or greater to allow Council to determine the development value for the purpose of calculating the contributions. The required detailed cost report format is provided as in **Appendix 2** and shall be prepared and submitted with the contribution payment.

Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant.

Complying Development

All certifiers are to ensure the Cost of Development is accurately reflected in the Long Service Levy payment for the whole development and if applicable, the Home Warranty Insurance documentation.

1.13 Timing of Levy Payment

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

1.14 Indexation of Contributions

In accordance with Clause 208 of the Regulation:

- (1) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between

the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.

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

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

IDC = the indexed development cost

ODC = the original development cost determined by the Council

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

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

1.15 Deferred or Periodic Payments

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

1.16 Alternatives to Payment

If an applicant for development consent seeks to make a contribution towards the provision of public amenities and services to meet development other than by payment of a levy or development contributions, the applicant may adopt one of the following procedures.

Offer made to the Council as part of a development application

If an applicant does not wish to pay a levy or other contributions in connection with the carrying out of development, the applicant may include in the relevant development application an offer to carry out works or provide a material public benefit towards which the levy was to be applied.

Council will consider the offer as part of its assessment of the development application. If Council agrees to the arrangement and grants consent to the application, it will substitute a condition of consent under s4.17 of the Act requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under s7.12 or development contributions under s7.11. If Council does not agree to the alternative arrangement, it may grant consent subject to a condition authorised by this Plan requiring the payment of a levy.

In assessing the applicant's offer, Council will have regard to the requirements of any current Practice Note issued by the NSW Government and may consider matters such as, but not limited to, the following:

-
- the overall benefit of the proposal,
 - the monetary value of the material public benefits, or work in kind,
 - what needs of the population would be satisfied and whether these equal or exceed those provided by conventional means,
 - whether the works program in the adopted development contributions Plan remains valid or requires amendment,
 - the financial implications for cash —flow and the short-fall in anticipated contributions,
 - the timing of completion and future recurrent costs,
 - future dedication, handover and management arrangements.

Offer made to Council following the grant of development consent requiring payment of a levy

If development consent has been granted to the carrying out of development subject to a condition authorised by this Plan to pay a levy, the applicant must comply with the condition unless it is modified under s4.55 of the Act.

If the applicant does not wish to pay the levy, the applicant may make an application to Council under s4.55 of the Act to modify the consent by substituting for the condition requiring payment of the levy a condition requiring the carrying out of works or the provision of a material public benefit towards the public purpose to which the levy was to be applied.

If Council approves the application, the applicant will be bound by the substituted condition. If Council does not approve the application, the applicant will remain bound by the condition authorised by this Plan requiring payment of the levy.

In assessing the s4.55 application, Council will have regard to the requirements of the current Practice Note issued by the NSW Government and may consider matters such as, but not limited to, the following:

- the overall benefit of the proposal,
- the monetary value of the material public benefits, or work in kind,
- what needs of the population would be satisfied and whether these equal or exceed those provided by conventional means,
- whether the works program in the adopted development contributions Plan remains valid or requires amendment,
- the financial implications for cash —flow and the short-fall in anticipated contributions,
- the timing of completion and future recurrent costs,
- future dedication, handover and management arrangements.

Offer to enter into a Voluntary Planning Agreement

If an applicant does not wish to pay a levy or development contributions in connection with the carrying out of development, the applicant may offer to enter into a Voluntary Planning Agreement (VPA) with Council under s7.4 of the Act in connection with the making of a development application.

Under the VPA, the applicant may offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes. Those purposes need not relate to the impacts of the applicant's development nor to the items listed in Schedule 1.

The applicant's provision under a VPA may be additional to or instead of paying a levy in accordance with a condition of development consent authorised by this Plan. This will be a matter for negotiation with Council.

The offer to enter into the VPA together with a copy of the draft agreement should accompany the relevant development application.

Council will publicly notify the draft VPA and an explanatory note relating to the draft agreement along with the development application and will consider the agreement as part of its assessment of that application.

If Council agrees to enter into the VPA, it may impose a condition of development consent under s7.7(3) of the Act requiring the agreement to be entered into and performed. If Council does not agree to enter into the VPA, it may grant consent subject to a condition authorised by this Plan requiring the payment of a levy.

1.17 Cross Boundary

A condition may be authorised by this Plan for the benefit (or part benefit) of an adjoining local government area in which the development is to be carried out. Any monetary contribution that is required to be paid under any such condition is to be apportioned among the relevant councils—

- a) in accordance with any joint or other contributions plan approved by those councils, or
- b) if provision is not made for the apportionment in any such plan—in accordance with the terms of the development consent for the development.

Any dispute between the councils concerned is to be referred to the Planning Secretary and resolved in accordance with any direction given by the Planning Secretary.

1.18 Reporting and accounting requirements

Council must keep and maintain a contributions register containing all information as per the *Environmental Planning & Assessment Regulation 2021*.

Council is required to keep up-to-date planning agreement and contributions register on its websites (www.walcha.nsw.gov.au) and include a link on the NSW Planning Portal. The information published is to include:

- a) Copies of all planning agreements (including amendments and variations to the agreements).
- b) Copies of the explanatory notes relating to those agreements or amendments.
- c) Planning agreement registers with additional information required in the amending Regulation.
- d) Local contributions register as per the Regulation.
- e) Annual financial statements for planning agreements and local infrastructure contributions showing aggregate totals of money, land, and works/works-in-kind received (also referred to as 'material public benefit').
- f) Copies of all current contributions plans and current contribution rates under each plan.
- g) Annual report information related to contributions expenditure, including a detailed breakdown of contributions expenditure by project.

Dictionary

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

"Applicant" means the person submitting a development application.

ABS means the Australian Bureau of Statistics.

Act means the *Environmental Planning and Assessment Act 1979*,

Council means Walcha Council,

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

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

development contributions means a development contribution required to be paid by a condition of development consent imposed pursuant to section 7.12 of the Act,

levy means a levy under s7.12 of the Act authorised by this Plan,

IDC means the indexed development cost

Minister meaning the minister administering the Act.

OCD means the original development cost determined by the Council

Public Facility meaning a public amenity or public service.

Regulation means the *Environmental Planning and Assessment Regulation 2000 2021*.

s7.11 Plan means a contributions Plan made pursuant to section 7.13 of the Act

s7.12 Plan means a contributions Plan made pursuant to section 7.13 of the Act

VPA means Voluntary planning Agreement

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SCHEDULE 1 (Clause 1.8)

Works Schedule

The works listed in this schedule may be funded from a mix of sources, including contributions collected from this Plan.

Staging as in this schedule means:

- Short Term 1-2 years
- Medium Term 3-4years
- Long Term 5-10 years
- Ongoing, continuing works

A Completed works for which contributions will be recouped

Nil

B. Works in progress for which contributions will continue to be levied

ITEM	STORMWATER DRAINAGE	EXPENDITURE	STAGING
BI.	Stormwater Drainage		
	1. Small culverts/causeways		Ongoing
	2. Upgrade stormwater pinch points (unspecified locations)		Ongoing
ITEM	ROAD TRANSPORT	EXPENDITURE	STAGING
B2.	Transport		
	1. Mobility Improvements (unspecified)	\$3,000,000	Ongoing
	a) Public Carpark Provision		Ongoing
	b) Lighting & Signage		Ongoing
	2. Pedestrian Pathways to Town Centres (unspecified)	\$2,000,000	Ongoing
	a) Mill Hole Footbridge		Long
	b) Pedestrian Solar Lighting		Medium – Long
	3. Corridor Road Improvements (unspecified)	\$3,000,000	Ongoing
	a) Walcha Street & Lane Reseals		
	b) Rural Reseals (unspecified roads)		

c) Village Reseals (unspecified roads)

C. New Public facilities for which contributions will be sought			
ITEM	PUBLIC FACILITIES	EXPENDITURE	STAGING
CI.	Community Improvement		
	1. Walcha Swimming Pool Improvement (unspecified)	\$2,000,000	Medium – Long
	2. Walcha Skate Park Pump Track (unspecified)	\$600,000	Medium – Long
	3. John Oxley Oval Upgrade (unspecified)	\$5,000,000	Ongoing
	a) Amenities/Function Centre	\$1,500,000	Short - Medium
	b) Provision of dedicated Carparking	\$750,000	Medium – Long
	c) Upgrading to allow festival accommodation/camping	\$500,000	Long
	4. Upgrade Library Resources (unspecified)		Medium – Long
	5. Upgrade Tourist Visitor Resources (unspecified)		Medium – Long
	6. Public Art Projects (unspecified)		Long
C2.	Environmental Management		
	1. EV Charging Stations		Medium - Long
	2. Levy Beautification Downstream of Middle Street Bridge	\$1,500,000	Medium – Long
C3.	Parks		
	1. Village Park/reserve upgrade (unspecified)	\$1,000,000	Ongoing
	2. Picnic/ BBQ Shelters (unspecified)	\$100,000	Ongoing
	3. Covered Seating/Shade Shelters (unspecified)	\$100,000	Ongoing

D. STRATEGY			
ITEM	PUBLIC FACILITIES	EXPENDITURE	STAGING
DI.	Strategic Heritage Action Plan (2019-2029)		
	1. Develop "Sound Trail" of heritage items and/or art works in the town centre.	\$50,000	Long Term
	2. Link Walkway from the Apsley River to the Langford Homestead entrance along the existing road corridor.	\$300,000	Medium – Long
	3. Upgrade Memorial Park (unspecified)	\$150,000	Medium – Long

4. Upgrade cemeteries (indigenous & Non-indigenous) (unspecified)	\$350,000	Ongoing
5. Develop a Interpretive Walk" at Nivison Lookout	\$50,000	Medium – Long

SCHEDULE 2 (Clause 1.12)

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.

Cost Summary Report

Development cost \$250,001 to \$1,000,000			
Applicant Name:			
Applicant Address:			
Type of Development:			
Development Location:			
Analysis of Development Costs			
Demolition & alterations	\$	Hydraulic services	\$
Structure	\$	Signage	\$
External walls, windows & doors	\$	Mechanical services	\$
Internal walls & screens & doors	\$	Fire services	\$
Wall finishes	\$	Lift services	\$
Floor finishes	\$	External works	\$
Ceiling finishes	\$	External services	\$
Fittings & equipment	\$	Other related works	\$
Subtotal 1	\$	Subtotal 2	\$
		Subtotal 1 carried forward	\$
		Subtotal 2 carried forward	\$
		Preliminaries & margins	\$
		Consultants fees	\$
		Other related Costs	\$
		Subtotal 3	\$
		Goods & 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 and Assessment Regulation 2021* at current prices, and
- included GST in the calculation of development cost.

Signed:

Name: _____

Date: _____

Detailed Cost Report

Registered Quantity Surveyor's Detailed Cost Report (Development cost equal to or greater than \$1,000,001)			
Applicant Name:			
Applicant Address:			
Type of Development:			
Development Location:			
Development Details			
GFA - Commercial	m ²	GFA - Other	m ²
GFA - Residential	m ²	Total GFA	m ²
GFA - Retail	m ²	Total Site Area	m ²
GFA - Carparking	m ²	Total Carparking Spaces	
Total Development Cost:	\$		
Total Construction Cost:	\$		
Total GST:	\$		
Estimate Details			
Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per m2 of site area	\$/m ²
% of Construction Cost	%	Car Park	\$
Demolition & Site Preparation	\$	Cost per m2 of site area	\$/m ²
Cost per m2 of site area	\$/m ²	Cost per space	\$/m ²
Construction - Commercial		Fit out - Commercial	\$
Cost per m2 of site area	\$/m ²	Cost per m2 of commercial area	\$/m ²
Construction - Residential		Fit out - Residential	\$
Cost per m2 of site area	\$/m ²	Cost per m2 of residential area	\$/m ²
Construction - Retail		Fit out - Retail	\$
Cost per m2 of site area	\$/m ²	Cost per m2 of retail area	\$/m ²

I certify that I:

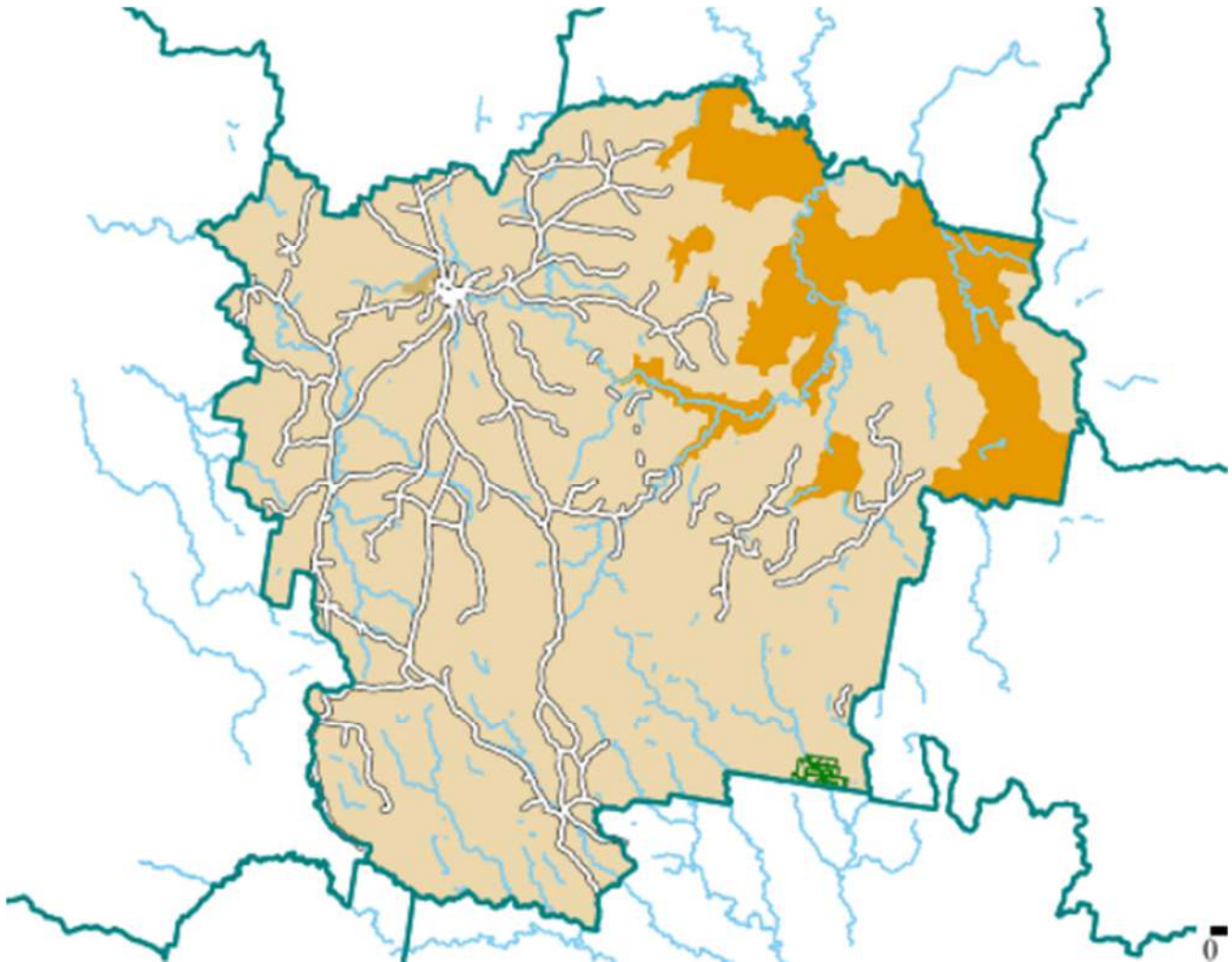
- am a member of the Australian Institute of Quantity Surveyors,
- have inspected the plans the subject of the application for development consent or construction certificate,
- have calculated the development costs in accordance with the definition of development costs in clause 208 of the *Environmental Planning and Assessment Regulation 2021* at current prices,
- have included GST in the calculation of development cost, and
- have measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed:**Name:** _____**Date:** _____**Position & Qualifications:** _____

SCHEDULE 3 (Clause 1.10)

Maps

Figure 1 - Walcha Council Area



ATTACHMENT 1: Current Ministerial Direction under S7.12

Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015 under the Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 94E of the Environmental Planning and Assessment Act 1979, give the following Direction.

Rob Stokes
Minister for Planning
Dated: 14th April 2016

1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015*.

2 When the Direction takes effect

This Direction takes effect on and from its date of publication in the Gazette.

3 Consent authorities to which Direction is given

- (1) This Direction is given to all consent authorities.
- (2) This Direction also applies to any joint regional planning panel and exercising consent authority functions of one or more councils.

4 Prohibition on levy where s 94 contribution required

If a development contribution under 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 94A 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.

5 Revocation of existing Directions in respect of local infrastructure contributions

The following directions under section 94E of the *Environmental Planning and Assessment Act 1979* are revoked:

- (a) the direction that was given by the then Minister for Planning, the Honourable Frank Sartor, M.P., and dated 10 November 2006 (**2006 Direction**), in relation to levies under section 94A of the Act,
- (b) the direction given by the then Minister for Planning, the Honourable Kristina Keneally, M.P., and dated 9 September 2009, in relation to levies under section 94A, and other local infrastructure contributions under section 94, of the Act for projects carried out under the Building Education Revolution program.

6 Savings provision

This Direction does not affect the operation of any condition of development consent that was imposed in relation to the subdivision of land as referred to in clause 2€ of the 2006 Direction.

Note.

Section 94EC (1A) of the Environmental Planning and Assessment Act 1979 provides as follows:

The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E (1) (a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.

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