LACHLAN SECTION 7.12 CONTRIBUTIONS PLAN



1.1 What is the name of this Plan?

This contributions Plan is called the Lachlan Section 7.12 Contributions Plan 2015 (Plan).

1.2 Application of this Plan

This Plan applies to all land within the Lachlan Shire Local Government Area (Area). Refer to Schedule 3 - Map

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 Part 4 of the *Environmental Planning and Assessment Act, 1979* (Act) in respect of development on land to which the Plan applies.

1.4 What is the purpose of this 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 (the Council or an accredited certifier) to impose, as a condition on a complying development certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this Plan
- to govern the application of money paid to the Council under a condition authorised by this Plan
- to assist the Council to provide the appropriate public amenities and services required to maintain and enhance amenity and service delivery within the area

1.5 When does this contributions Plan commence?

This Plan has been prepared pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* (the act) and the *Environmental Planning and Assessment Regulation 2021* (the Regulation).

This contributions Plan commences on the 8 July 2015.

1.6 Expected development & public facilities demand

For the purposes of the *Environmental Planning and Assessment Regulation 2021*, the relationship between the expected types of development in Lachlan Shire and the demand for additional public amenities and services to meet that development has been established through current demographic information.

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The expected types of development are, but not limited to:

- Residential Accommodation
- Mixed use development
- Commercial development
- Industrial development
- Recreation and tourism related development
- Subdivisions
- Rural Industry
- Mines
- Quarries

Provision will need to be made for additional or improved public facilities and infrastructure to meet the existing demand.

A range of public facilities are required to be provided or improved to meet residential development, commercial and industrial demands including open space provision, improvement and embellishment, community and cultural facilities and village improvement.

Council is extremely conscious of the need to maintain the sense of community that has been critical to Lachlan Shire's development over the years. This will be achieved through:

- An open, accessible and honest Council displaying appropriate leadership
- Developing effective road, transport and infrastructure networks
- Promotion of economic sustainability and technological change
- Creation of a dynamic area having pride in its agricultural and national heritage
- Protection of the natural, built and cultural environment
- Provision of a high standard of recreational and cultural facilities
- · Quality urban design and development

The 7.12 levy will enable Council to provide high quality and diverse public amenities and services to achieve the above actions and as a consequence meet the expectations of the existing and future residents of the Lachlan Shire.

The additional or improved public facilities to be provided to meet the expected future development are set out in Schedule 1.

1.8 Council may require payment of the levy as a condition of development consent

This Plan authorises the Council to grant consent to development to which this Plan applies subject to a condition requiring the applicant to pay to the Council a levy of 1% of the proposed cost of carrying out the development, *provided that* the Council does not also impose on the consent a condition pursuant to section 7.11 of the Act.

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Conditions authorised by this Plan are subject to any direction given by the Minister under section 7.17 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 Section 7.17 (formerly s94E) 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.

1.9 How will the Council apply money obtained from the levy?

Money paid under a condition authorised by this Plan is to be applied by the 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.

A map showing the Council area for which specific public amenities and public services to be provided is contained in Schedule 3.

Subject to s 7.12 of the Act and clause 1.12, the public amenities and public services listed in Schedule 1 are to be provided in accordance with the staging set out in that Schedule.

1.10 Are there any exemptions from the levy authorised by this Plan?

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 the Council, provide a material public benefit to the Lachlan Shire 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.

- Works to raise an existing dwelling to be above the Flood Planning Level
- Public infrastructure to be carried out by or on behalf of any public authority including the Council

1.11 Pooling of Levies

This Plan expressly authorises s7.12 levies paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes in accordance with the priorities set out in the Works Schedule in Schedule 1.

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1.12 Construction certificates and obligations of accredited certifiers

In accordance with clause 158 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 the Council in accordance with clause 158(2) of the Regulation. Failure to follow this procedure may render such a certificate invalid.

The conditions imposed must be generally consistent with Council's standard condition for a Development Application (see Attachment 2) and be strictly in accordance with this Plan.

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

1.13 Complying Development and obligations of accredited certifiers

In accordance with the Act, accredited certifiers must impose a condition on a Complying Development Certificate, requiring monetary contributions in accordance with this Plan for all types of development, except for those development that are exempt from charges as per section 1.10 or those listed under clause 208 of the Regulation.

The conditions imposed must be generally consistent with Council's standard condition for Complying Development Certificates (see Attachment 2) and be strictly in accordance with this Plan. It is the professional responsibility of an accredited certifier to inform themselves of any amendments to this Plan (including current indexed rates), to accurately calculate the contribution and to apply the development contributions condition correctly in accordance with Council current consent condition requirements.

It is also the professional responsibility of an accredited certifier to ensure that any applicable monetary contributions have been paid to Council prior to authorising works to commence

1.14 How is the proposed cost of carrying out the development determined?

The proposed cost of carrying out the development will be determined by the Council in accordance with clause 208 of the *Environmental Planning and Assessment Regulation 2021*.

The procedures set out in Schedule 2 to this Plan must be followed to enable the Council to determine the amount of the levy that is payable.

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.

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1.15 When is the levy payable?

The levy must be paid to the Council at the time specified in the condition that imposes the levy.

If no such time is specified, the levy must be paid prior to the issue of a construction certificate or in accordance with the complying development certificate.

1.16 How will the levy be adjusted?

Clause 208(5) of the EP&A Regulation allows the adjustment of a s7.12 contribution between the date of the consent and the time of payment of the contribution. The following is a model condition of consent for a s7.12 levy:

Model Development Condition of Consent

Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Lachlan Shire Council Section 7.12 Development Contributions Plan, 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 Lachlan Shire Council Section 7.12 Development Contributions Plan. The contribution is to be paid before [insert requirement].

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contribution has been paid to Council in accordance with the above timeframes.

Model Complying Development Condition

Pursuant to Section 4.28(6) of the Environmental Planning and Assessment Act 1979, and the Lachlan Section 7.12 Contributions Plan (the Plan), a monetary 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 Lachlan Section 7.12 Contributions Plan. The contribution is to be paid before [insert requirement].

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contribution has been paid to Council in accordance with the above timeframes.

1.17 Can deferred or periodic payments be made?

Deferred or periodic payment of levies authorised by this Plan are not allowed.

1.18 Are there alternatives to payment of the levy?

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.

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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.

The Council will consider the offer as part of its assessment of the development application. If the 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 s7.12. If the 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, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* 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 the 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 the Council approves the application, the applicant will be bound by the substituted condition. If the 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, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* 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

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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 with the Council under s7.4 of the Act in connection with the making of a development application.

Under the Planning agreement, 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 to the applicant's development nor to the items listed in Schedule 1.

The applicant's provision under a Planning agreement 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 the Council.

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

The Council will publicly notify the draft Planning agreement 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 the Council agrees to enter into the Planning agreement, 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 the Council does not agree to enter into the Planning agreement, it may grant consent subject to a condition authorised by this Plan requiring the payment of a levy.

Applicants should refer to the Practice Note on Planning Agreements contained in the *Revised Development Contributions Manual*

1.19 Monitoring and review of the Plan and contributions

It is intended that this Plan be monitored and reviewed on a regular basis as it contains forecasts of future development including likely future population and about the likely demands and costs of providing community infrastructure for that population.

Monitoring actual developments, population changes and community demands will allow appropriate updating and amendment as necessary.

The cost of works proposed by the Plan (including land values) may also need review over time if there is a concern that the indexation of costs may not be adequately reflecting actual current costs.

Council's aim is that all forecasts, costs and assumptions are reviewed and adjustments and/or amendments as appropriate will be made at four yearly intervals after the date of adoption of this Plan.

The Plan may also be amended to address the matters listed in the Regulation. In particular, the Plan may amended from time to time to reflect indexation of contributions and the cost of works without the need for public exhibition.

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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.

Act means the Environmental Planning and Assessment Act 1979,

Council means Lachlan Shire Council,

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,

development application has the same meaning as in the EP&A Act

development consent has the same meaning as in the EP&A Act

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

Regulation means the Environmental Planning and Assessment Regulation 2021.

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

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SCHEDULE 1 - 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:
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Short Te	rm 1-2 years
	Short Te

☐ 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

Nil

C. New Public facilities for which contributions will be sought

ITEM	PARKS	EXPENDITURE	STAGING
D	Burcher Park Playground	\$20,000	Medium Term
D	Hannah Mahon Park, Fifield Improvements	\$11,400	Medium Term
D	Albert Park Improvements	\$16,200	Medium Term
D	Tullibigeal Park	\$40,000	Short-Medium Term
ITEM	PUBLIC FACILITIES	EXPENDITURE	STAGING
		\$200,000	
1	Gumbend Lake Walking Track		Short Term
2	Gumbend Lake BBQ and Amenities	\$30,000	Short Term
4	Tottenham Township Improvements	\$50,000	Short-Medium Term
5	Condobolin SRA Facilities	\$100,000	Short Term
	Condobolin Visitor Information Centre		
6	Precinct	\$100,000	Short Term
			Short-Medium
7	Lake Cargelligo Township Improvements	\$300,000	Term

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SCHEDULE 2 – Cost Summary

A cost summary report may be required to be submitted to allow Council to determine the contribution that will be required.

The following procedures as outlined below will be used by Council:

- (1) Where Council does not accept a submitted estimate of the value of works, Council may require a cost summary report to be completed for works with a value no greater than \$250,000.00 (Form
 - Alternatively, for a single dwelling, Council may accept a signed contract with a licensed builder which is accompanied by a fair estimate of other assessable development costs not included in the building contract, such as landscaping, paths, fences, driveway and the like.
- (2) Where Council does not accept a submitted estimate of the value of works, Council may require a Quantity Surveyor's Detailed Cost Report to be completed by a registered Quantity Surveyor for works with a value greater than \$250,000.00 (Form 2).

How to Calculate Value of Works

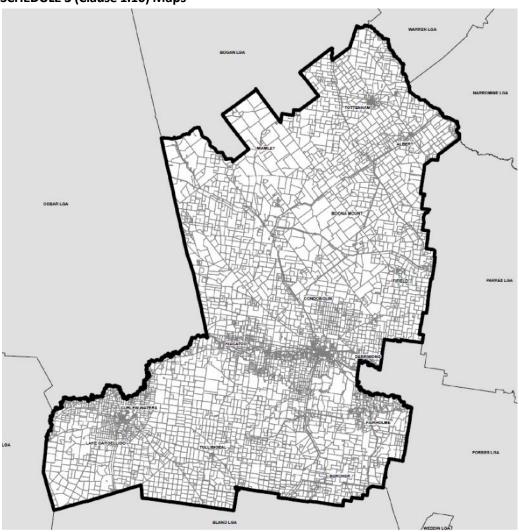
To avoid doubt or confusion in the calculation of the value of works or construction costs, clause 208 of the Environmental Planning and Assessment Regulation 2021 sets out the things that must be included in the estimation of the value of works as follows:

Section 7.12 levy determination of proposed cost of development

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 7.12 levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:
 - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,
 - (b) if the development involves a change of use of land the costs of or incidental to doing anything necessary to enable the use of the land to be changed,
 - (c) if the development involves the subdivision of land the costs of or incidental to preparing, executing and registering the Plan of subdivision and any related covenants, easements or other rights.
- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.
- (3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:
 - (a) the cost of the land on which the development is to be carried out,
 - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,
 - (c) the costs associated with marketing or financing the development (including interest on any loans),
 - (d) the costs associated with legal work carried out or to be carried out in connection with the development,
 - (e) project management costs associated with the development,
 - (f) the cost of building insurance in respect of the development,
 - (g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),
 - (h) the costs of commercial stock inventory,
 - (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.

		(j)	the costs of enabling access by people with disability to the development,
		(k) costs	the costs of energy and water efficiency measures associated with the development, (I) the of development that is provided as affordable housing,
		(I)	the costs of development that is provided as affordable housing,
		(m)	the costs of development that is the adaptive reuse of a heritage item.
(4)	cont by t	ribut he pla	losed cost may be adjusted before payment of a development levy, as specified in a lions plan, to reflect quarterly or annual variations to readily accessible index figures adopted an between the day on which the proposed cost was determined by the consent authority ay by which the development levy must be paid.

SCHEDULE 3 (Clause 1.10) Maps



LACHLAN COUNCIL LOCAL GOVERNMENT AREA

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Form 1.

SAMPLE COST SUMMARY REPORT

	nmary Report			
[Develor	oment Cost no greater than 100,000.00]			
DEVELO	PMENT APPLICATION No.	F	REFERENCE:	
CONSTR	UCTION CERTIFICATE No.		DATE:	
APPLIC	ANT'S NAME			
APPLIC	ANT'S ADDRES			
DEVELO	PMENT NAME:			
DEVELO	PMENT ADDRESS:			
ANALYSI	IS OF DEVELOPMENT COSTS:			
	Demolition and alterations	\$	Hydraulic services	\$
	Structure	•	Mechanical services	\$
	External walls, windows and doors		Fire services	\$
	Internal walls, screens and doors	\$		\$ \$
	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	۶ \$		
Logratify	that I have:	Ą		
		ication	for dovolonment concent	t or construction
	inspected the Plans the subject of the appl certificate.	ication	ior development consem	t or construction
			uith the definition of de	valanmant casts in clave
	calculated the development costs in accor			
	208 of the <i>Environmental Planning and Asset</i>		=	in prices.
	included GST in the calculation of developm	ient cost	ι .	
Name:				
Position a	and Qualifications:			
Date:				

Form 2

SAMPLE QUANTITY SURVEYORS REPORT

Cost Summary Report [Development Cost in excess of 100,000.00] * A member of the Australian Institute of Quantity Surveyors **DEVELOPMENT APPLICATION No. REFERENCE: CONSTRUCTION CERTIFICATE No.** DATE: **APPLICANT'S NAME** APPLICANT'S ADDRES **DEVELOPMENT NAME: DEVELOPMENT ADDRESS:** m 2 Gross Floor Area – Commercial ^{m2} Gross Floor Area – Other Gross Floor Area – Residential ^{m2} Total Gross Floor Area m 2 Gross Floor Area – Retail m2 Total Site Area m 2 Gross Floor Area – Car Parking ^{m2} Total Car Parking Spaces **Total Development Cost** \$ **Total Construction Cost** \$ **ESTIMATE DETAILS: Professional Fees** \$ \$ Excavation % of Development Cost % Cost per square metre of \$ $/m^2$ site area % of Construction Cost % Car Park Cost per square metre of site area **Demolition and site preparation** \$ \$ \$ \$ Cost per square metre of site area Cost per space \$ \$ **Construction Commercial** Fit – out – commercial \$ Cost me square metre of commercial area \$ Cost per square metre of site area **Construction Residential** \$ Fit out residential \$ Cost per metre square of residential area \$ Cost per metre square of residential area \$ Construction - Retail \$ Fit out – Retail \$ Cost per square metre of retail area \$ Cost per square metre of retail area \$

Total GST \$

certify	that I have:
	inspected the Plans the subject of the application for development consent or construction certificate.
	prepared and attached an elemental estimate generally prepared in accordance with the Australian Cos Management Manuals from the Australian Institute of Quantity Surveyors.
	calculated the development costs in accordance with the definition of development costs in the S7.12 Plan of the council of [insert] at current prices.
	included GST in the calculation of development cost.
	measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.
Signed:	
Position	and Qualifications:
Date:	

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ATTACHMENT 1: Current Ministerial Direction under S7.17

Environmental Planning and Assessment Act 1979 DIRECTION UNDER SECTION 7.17

I, the Minister for Planning, under section 7.17 of the *Environmental Planning and Assessment Act 1979* ("the Act"), direct consent authorities that:

- (1) The maximum percentage of the levy for development under section 7.12 of the Act, having a proposed cost within the range specified in the Table to Schedule A, is to be calculated in accordance with that Table.
- (2) Despite subclause (1), a levy under section 7.12 of the Act cannot be imposed on development:
 - a) for the purpose of disabled access,
 - b) for the sole purpose of affordable housing,
 - c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
 - d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or
 - e) other than the subdivision of land, where a condition under section 7.12 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.

In this direction words and expressions used have the same meaning as they have in the Act The term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*.

This direction does not apply to development applications and applications for complying development certificates finally determined before 1 December 2006.

Minister for Planning, Sydney

SCHEDULE A

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

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ATTACHMENT 2 - Model Conditions of Consent

The following model Conditions of Consent may be used for Development Consents and Complying Development Certificates.

Model Development Condition of Consent

Pursuant to section 4.17 of the Environmental Planning and Assessment Act 1979, and the Lachlan Shire Council Section 7.12 Development Contributions Plan, 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 Lachlan Shire Council Section 7.12 Development Contributions Plan. The contribution is to be paid before [insert requirement].

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contribution has been paid to Council in accordance with the above timeframes.

Model Complying Development Condition

Pursuant to Section 4.28(6) of the Environmental Planning and Assessment Act 1979, and the Lachlan Section 7.12 Contributions Plan (the Plan), a monetary 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 Lachlan Section 7.12 Contributions Plan. The contribution is to be paid before [insert requirement].

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contribution has been paid to Council in accordance with the above timeframes.

Council's Plan may be viewed at https://www.lachlan.nsw.gov.au or a copy may be inspected at Council's Offices during normal business hours on request.

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Version: 3	ADOPTED:	Commencement Date:	Last Review Date:	Next Review Date:	Records Management
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