

LITHGOW CITY COUNCIL

DRAFT LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN (SECTION 7.12) 2024



2024

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1 Introduction

1.1 Name of the plan

This Plan is known as *Lithgow City Council Local Infrastructure Contributions Plan (section 7.12) 2023* and is effective from [insert date effective].

This Plan has been prepared within the legislative framework of Part 7, Subdivision 3 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), *Part 9 of the Environmental Planning & Assessment Regulation 2021* (EP&A Regulation) and associated Ministerial Directions. Consideration has also been given to the advice provided in the Department of Planning and Environment's *Section 7.12 Fixed Development Consent Levies Practice Note – February 2021*.

1.2 Relationship with other Council plans

This Plan repeals and replaces *Section 94A Development Contributions Plan for Lithgow City Council* (October 2015).

Council may, from time to time, adopt site specific contributions plans or enter into planning agreements for areas that are subject to significant new development such as the urban release areas of South Bowenfels and Marrangaroo. Where this is the case, these plans or agreements will identify how they interact with this Plan.

This Plan also expressly authorises that unspent monies collected through previous contributions plans are to be expended on works identified in the works schedule included in Attachment 1 of this Plan.

1.3 Purpose of the plan

The purpose of this Plan is to authorise the imposition of a condition on relevant development consents and complying development certificates requiring a levy towards the provision of infrastructure under Section 7.12 of the *Environmental Planning and Assessment Act 1979, as amended*.

The plan will also guide the provision of infrastructure to enhance amenity and service delivery throughout Lithgow City.

1.4 Development in Lithgow City

Council's adopted population growth targets will see the City grow to 25,500 over the next twenty years (a growth in population of approximately 4,000 people). Residential growth will be focussed on the population centres of Lithgow, Wallerawang and Portland with minor residential growth on the fringes of the remaining villages due to current zonings.

Council's *Local Strategic Planning Statement 2020* also identifies a number of areas for investigation for future industrial development and Council has resolved to prepare an Employment Lands Strategy. Growth in non-residential development is therefore also expected.

1.5 Relationship between new development and infrastructure

Infrastructure includes all the physical components that support communities to go about their daily lives such as water, roads, sewerage, etc. Well planned infrastructure, services and community facilities improve the functioning and liveability of the LGA for our current and future generations. As the area changes and grows it is essential that infrastructure is provided in the right areas and at the right time and is able to respond to the changing needs of our community.

New development and the changing demographic profile associated with the development has the potential to increase the demand for new and improved public amenities and services. Therefore, it is considered reasonable that new development contributes to the sustained and ongoing investment in the provision, extension and augmentation of infrastructure and services

With development focussed on the population centres of Lithgow, Wallerawang and Portland, so too will demand for new or upgraded infrastructure resulting from new development. The provision of upgraded or new infrastructure under this plan is therefore focussed on these areas to meet the need of this new development.

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2 Application of the plan

2.1 Extent and nature of the plan

2.1.1 Area to which the plan applies

This plan applies to the whole local government area of Lithgow City as shown in Figure 1 below.

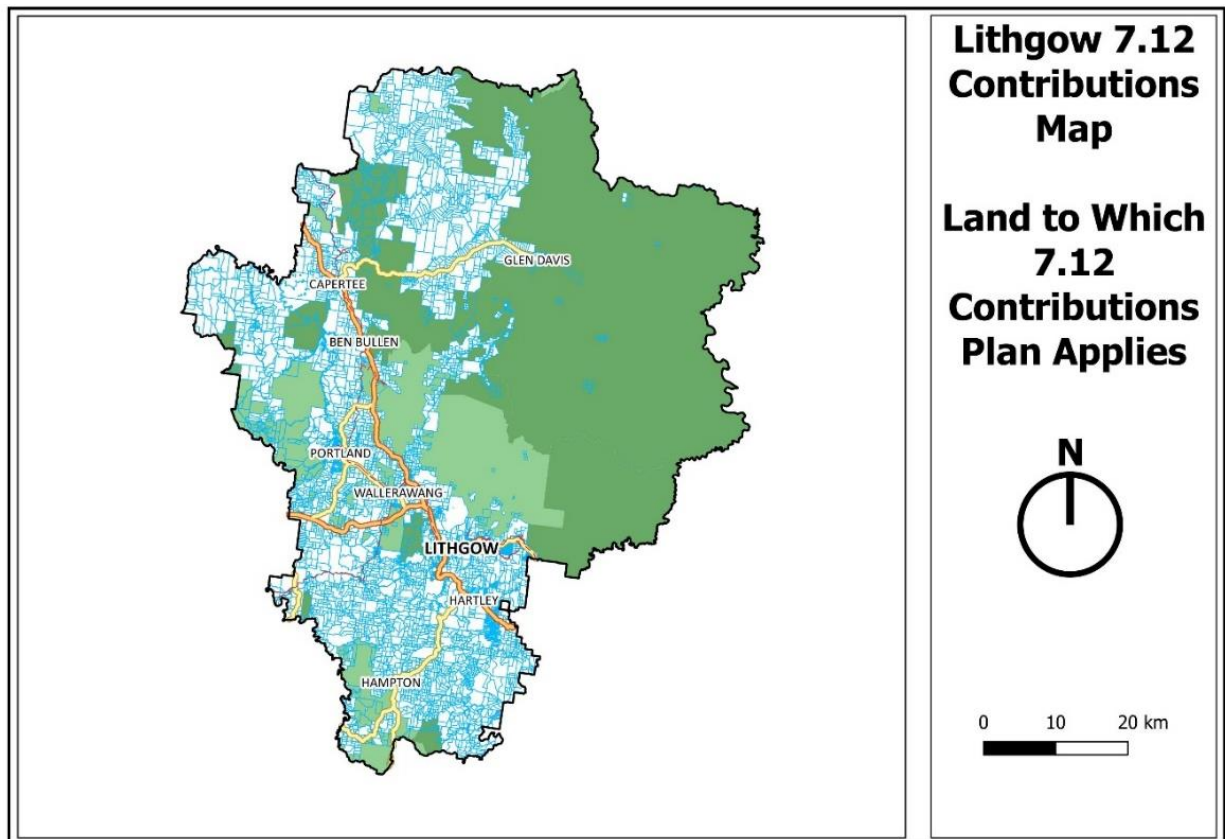


Figure 1: Land to which the plan applies

2.1.2 Development to which the plan applies

The plan applies to all development that requires a development consent or complying development certificate under the EP&A Act

Council does not permit deferred or periodic payments for levies under this plan.

2.2 Obligations of accredited certifiers

As a consent authority for certain developments, accredited certifiers share the responsibility for ensuring compliance with this Plan.

2.2.1.1 Complying development certificates

Accredited certifiers must impose a condition requiring monetary levies in accordance with this Plan in accordance with section 4.28(9)) of the EP&A Act and clause 156 of the EP&A Regulation if the proposed development is of a type identified in section 2.1.2 of this Plan.

In accordance with clause 158 of the EP&A Regulation and section 3.1.2 of this Plan, the principal certifier must also ensure that payment is made before any work commences.

2.2.2 Construction certificates

Aa accredited certifier 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 monetary levies has been satisfied. In particular, the certifier must ensure that the applicant provides a receipt or other evidence of payment confirming that levies have been fully paid and copies of such receipts or evidence must be included with copies of the certified plans provided to the Council.

2.3 Allowing for existing development

In order to ensure that new development is only charged a levy once for the demand it generates, it is important that existing development and past contributions or levies are taken into consideration.

Council has sought to address this through:

- The application of the exemptions to payment outlined in Section 3.1.1.1 of this Plan
- Applying only a levy under section 7.12 to any relevant consent (in accordance with section 7.12(2) of the EP&A Act)
- Requiring any site-specific contributions plans developed by Council to specify how they will interact with this Plan
- Requiring any planning agreements entered into to identify how they will interact with this plan (as required by section 7.4(3)(e) of the EP&A Act)

2.3.1 Allowing for subdivision works

The application of a levy under this plan to development on land following subdivision it is necessary to distinguish between the manner in which a contribution is calculated under section 7.11 of the EP&A Act and a levy is calculated under section 7.12 of the EP&A Act.

A contribution under section 7.11 is calculated based on the actual demand identified because of the intended development of the subdivision. For example, it is assumed that each residential lot created will have at least one dwelling constructed on it and are levied for that dwelling at subdivision stage. Where this is the case a credit will be given for that dwelling and that dwelling only. A section 7.12 levy can be imposed on all additional dwellings beyond that for which a contribution was paid at subdivision.

A levy imposed under section 7.12 is based on the estimated cost of works that relates specifically to the development in question. Unlike section 7.11 contributions it does not consider the future development of the lot created. Where a levy has been imposed on the subdivision under section 7.12, a section 7.12 levy will be imposed on future development on that site without any credit for earlier levies.

3 Administration

3.1.1 Exemptions and refunds

3.1.1.1 Exemptions

The following types of development will be exempt from a levy under this plan:

- a. Development by or on behalf of Lithgow City Council
- b. Development by or on behalf of NSW Government for public infrastructure such as hospitals, police stations, education facilities or public transport infrastructure
- c. Development that involves rebuilding or repair after natural disasters such as flooding or bushfires where there is no increase in the intensity of development
- d. Alterations and additions to an existing dwelling
- e. Demolition of an existing dwelling
- f. Non-residential development where there is no intensification of use or increase in floor area.

Exemptions that do not fall into the categories above will only be considered at the request of the applicant and are at the full discretion of the Council. A request for exemption must be submitted in writing and should include justification and/or supporting documentation to support the request.

Exemptions may be considered in the following circumstances:

- **Public Sector Developments**
Where the development is provided by the public sector with an underlying philosophy of community service, and run on a non-profit basis, such as a courthouse, public hospital, public educational establishment or a community centre.
- **Not for profit organisations**
Where a non-residential development is provided by registered not for profit organisations with an underlying philosophy of community service.

Council will consider the following when assessing a request for exemption:

- Impact of the development on demand for infrastructure
- Social benefit provided
- Implications for infrastructure funding and provision
- Capacity to pay

3.1.1.2 Refunds

A refund of a contribution may be considered where the development consent is surrendered, and the contribution has not been spent. Lapsed consents will be considered for a refund where the owner of the consent has written to Council and agrees to surrender the consent.

Any refunds will be offered at Council's discretion.

3.1.2 Timing of payment

The following timeframes for the payment of development levies have been established to ensure the timely provision of infrastructure and to provide Council with a degree of security regarding payment:

- *Development applications involving building work:* Prior to the release of the Construction Certificate.
- *Development applications involving subdivision:* Prior to the release of the Subdivision Certificate.

- *Development applications involving building work and subdivision:* Prior to the release of the Construction or Subdivision Certificate, whichever occurs first.
- *Complying Development Certificates:* Before any work authorised by the certificate commences.

3.2 Accounting and management of funds

3.2.1 Financial management

As required by sections 7.3(1) and 7.3(4) of the EP&A Act:

- All levies received under this plan will be held as a restricted asset and allocated for the purpose for which they were levied
- Any interest earned from the investment of levies received will also be held as a restricted asset and allocated towards the infrastructure outlined in this plan.

3.2.2 Pooling and progressive application of levies received

As permitted under Section 7.3(2) of the EP&A Act, levies received under this plan will be pooled and progressively applied for the provision of the infrastructure identified in the works schedule provided in Attachment 1.

In this regard contributions received for those items no longer being funded under this Plan will, wherever possible, be reallocated to other items within this Plan that serve a similar purpose and catchment to that for which it was originally levied.

3.3 Plan review and monitoring

3.3.1 Review

Although it is important to provide a degree of certainty regarding the level of levies and the types of infrastructure to be provided, it is also necessary to ensure that the Plan remains relevant to the changing development environment and the needs of the community. It is, therefore, necessary to regularly review the Plan.

In this regard, a major review of the Plan should be undertaken at least once every five years. Council may also undertake minor reviews to address issues such as legislative changes, case law or issues arising out the practical application of the Plan.

All reviews will follow the procedures set out in the EP&A Regulation.

3.4 Appeal rights

As set out in Section 7.20(3) of the EP&A Act, the validity of any procedure required to be followed in making or approving this Plan is not to be questioned in any legal proceedings except those commenced in the Court by any person within 3 months after the date on which this Plan came into effect.

4 Calculating the levy

In accordance with section 7.12 of the EP&A Act, the levy will be calculated as a percentage of the estimated cost of carrying out the development.

4.1 Determining the cost of carrying out development

4.1.1 What to include in the cost of development

In accordance with clause 208 (2) of the EP&A Regulation the cost of development includes:

1. if the development involves the erection of a building or the carrying out of engineering or construction work:
 - a. erecting the building or carrying out the work, and
 - b. (demolition, excavation and site preparation, decontamination or remediation,
2. if the development involves a change of use of land:
 - a. anything necessary to enable the use of the land to be changed,
3. if the development involves the subdivision of land:
 - a. preparing, executing and registering:
 - i. the plan of subdivision, and
 - ii. the related covenants, easements or other rights.

As outlined in clause 208(4) of the EP&A Regulation it does not, however, include

- 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.

4.1.2 Preparing the cost estimate

The value of works must be provided by the applicant at the time of submitting the application and if the quantum of works exceeds \$1,000,000.00 be independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

Without limitation to the above, Council may review the valuation 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.

Examples of the level of detail that must be provided in a cost estimate are outlined in Attachment 3 (for works up to and including \$1,000,000 in value) and Attachment 4 (for works exceeding \$1,000,000 in value).

4.2 Determining the rate of levy to be applied

The percentage to be applied when calculating the levy payable are defined in clause 209(2) of the EP&A Regulation as outlined in Figure 2 below.

Figure 2: Determining the levy

Estimated cost of development	Levy applicable
Up to and including \$100,000	Nil
\$100,001 to \$200,000	0.5%
More than \$200,000	1%

4.3 How to calculate the levy

The levy payable will be calculated by applying the applicable levy as outlined in Figure 2 to the estimated cost of development established in accordance with section 4.1.1 of this Plan.

4.4 Adjusting the levy at payment

In accordance with clause 208(5) of the EP&A Regulation and, for the purposes of this Plan, the proposed cost of carrying out development is to be indexed to reflect quarterly variation in the Consumer Price Index, All Group Index Number for Sydney between the date the proposed cost was determined by Council/ Private Certifier (i.e. date of receipt of the application) and the date the levy is paid. The formula governing indexation of the proposed cost of carrying out development is as follows:

$$IDC = ODC \times \left(\frac{CP2}{CP1} \right)$$

Where:

- IDC = the indexed development cost
- ODC = the original development cost determined by Council or an accredited certifier
- CP2 = 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 = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the cost being determined by Council or an accredited certifier

5 Infrastructure funded

Council will fund a variety of infrastructure projects through the levies received under this Plan across a range of categories. The focus of these projects will be to cater for the additional demand generated by new development within the LGA. As outlined in section 3.2.2 of this Plan, funds will be pooled and progressively applied towards items in this plan based on the priorities established in the work schedule provided in Attachment 1.

5.1 Roads, Traffic Management and Active Transport

This category may include road upgrades, intersection treatments and active transport facilities that are designed to cater for the additional traffic movement that will arise from new developments.

5.2 Open space

Additional population creates additional pressure on open space facilities. The focus of the open space infrastructure in this plan is the upgrade of existing open space to cater for this additional demand.

5.3 Civic and Cultural Community Facilities

Additional population creates additional pressure on community facilities such as community centres and libraries. The focus of the community facility infrastructure in this plan is the upgrade of existing facilities to cater for this additional demand. It also provides for necessary infrastructure improvements to conserve important cultural heritage places and spaces as new development is built around them.

5.4 Other

This plan includes the necessary strategy and design work required to appropriately identify and cost future infrastructure projects. This work is critical to ensure that infrastructure required to support new development is delivered when and where it is needed.

The additional population generates the need for the preparation and implementation of this plan. This plan contains a small contribution towards the cost of preparing and implementation of this Plan.

Attachment 1: Indicative works schedule

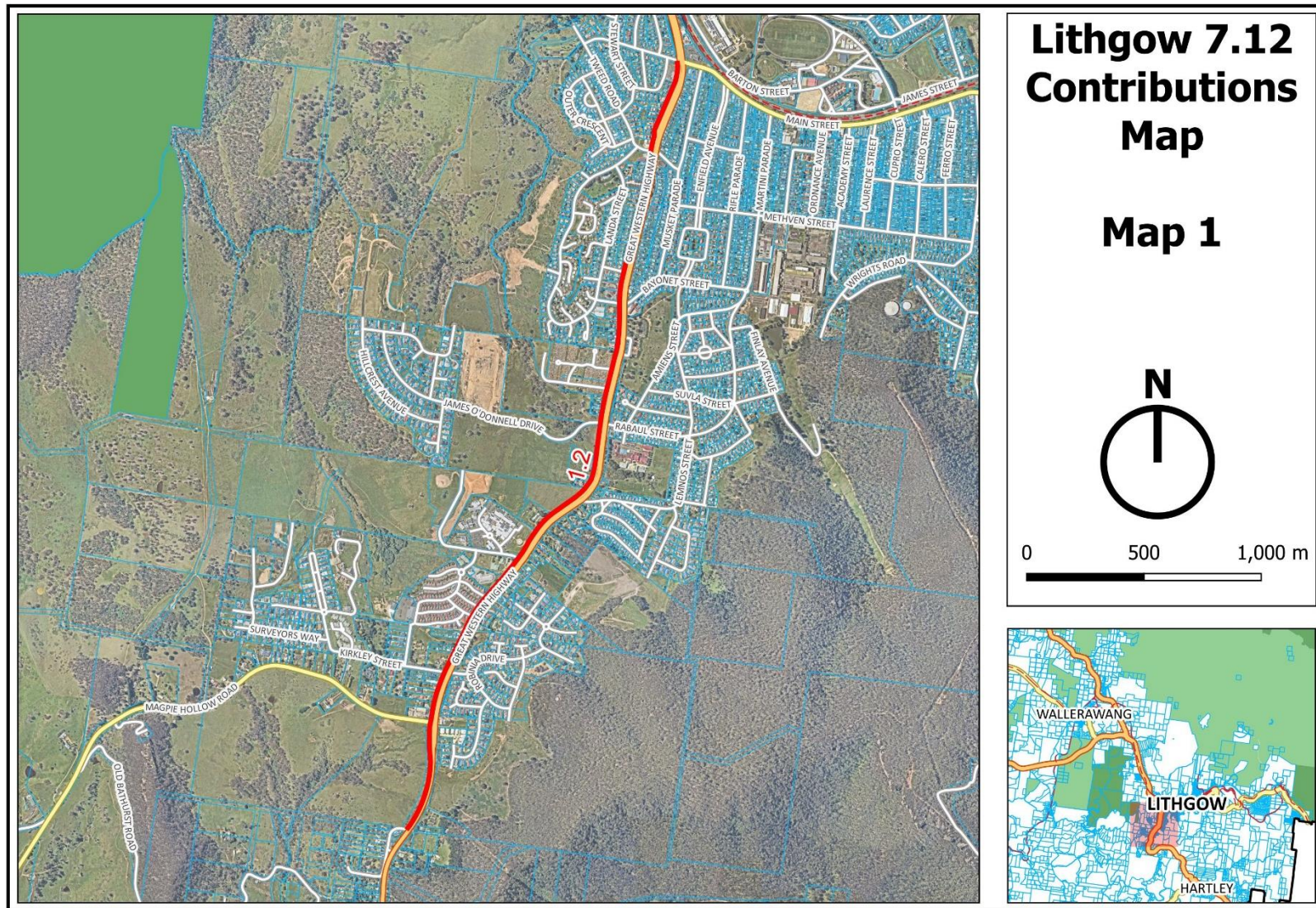
Item No	Description of Work	Description of Works	Total Estimated Cost	Section 7.12 Funding	Other Funding Sources	Estimated Time of Provision	Priority	Strategic Document Alignment	Map Ref
1	Roads, Traffic Management and Active Transport								
1.1	Kerbside Pram and Accessibility Ramp Enhancement Program	Auditing for compliance and improvement/replacement of priority kerbside and pram accessibility ramps	\$80,000	\$80,000	Nil	2024/2025	High	Active Transport Plan Community Strategic Plan (BE1, BE2)	
1.2	GWH Shared Pathway from Mudgee St to Main St Stage 1	Planning and Design Works	\$60,000	\$60,000	Nil	2024/2025	Medium	Active Transport Plan Community Strategic Plan (BE1, BE2)	1
2	Open space and Recreation								
2.1	QE Park District Level Upgrade Stage 1 -Southern Toilet Block	Single Uni-Sex Exeloo to service children's playground and passive recreation area	\$220,000	\$220,000	Nil	2024/2025	High	Open Space and Recreational Needs Study R-28 Community Strategic Plan (BE2)	2
3	Civic and Cultural Community facilities								
3.1	Union Theatre Kitchen Upgrades		\$40,000	\$40,000	Nil.	2024/25	High	Community Strategic Plan (CC1)	3

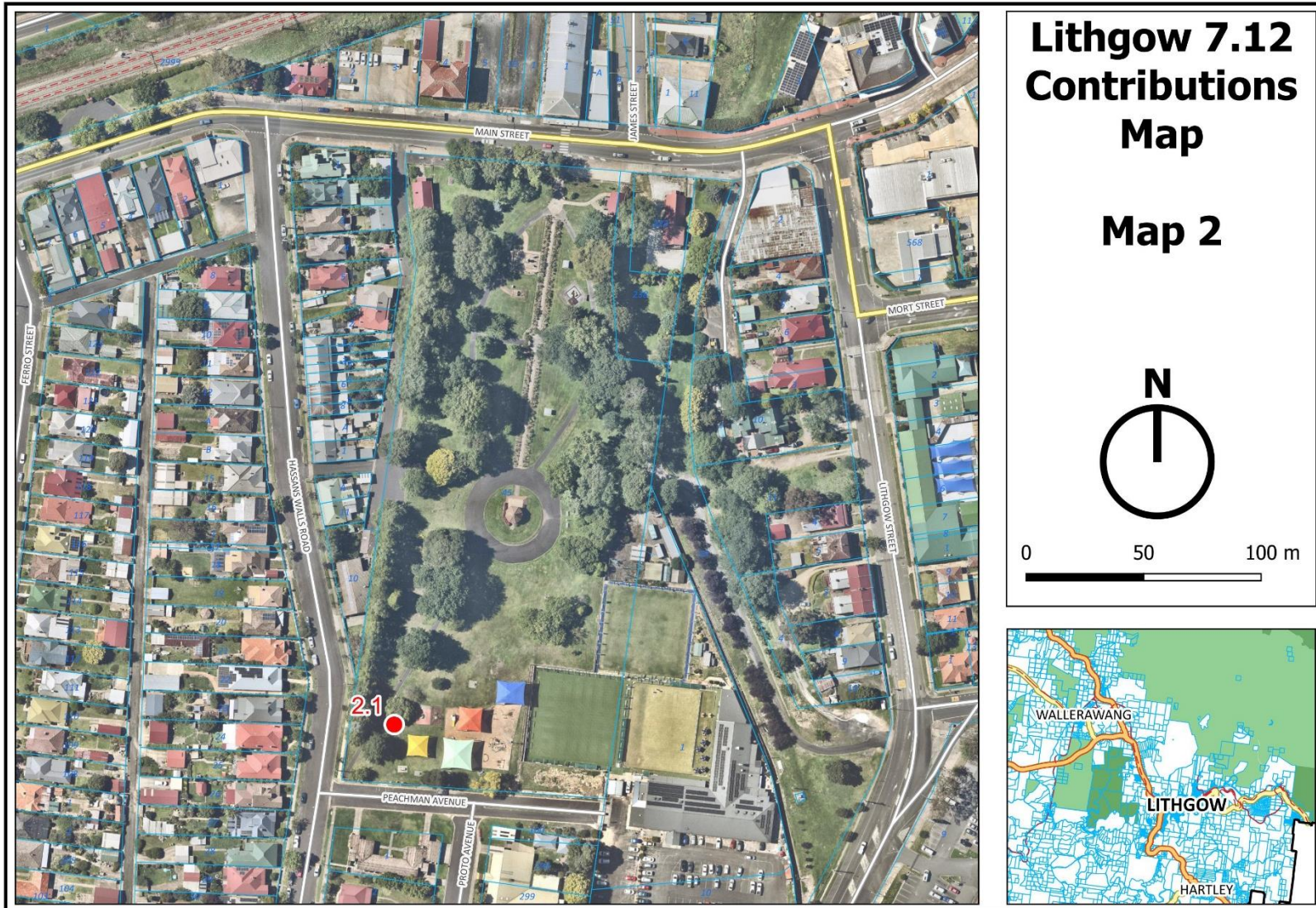
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Item No	Description of Work	Description of Works	Total Estimated Cost	Section 7.12 Funding	Other Funding Sources	Estimated Time of Provision	Priority	Strategic Document Alignment	Map Ref
3.2	Bowenfels Gun Emplacements Improvement Program	Improvements to conserve and preserve State Heritage Item and improve public access and enjoyment	\$50,000	\$50,000	Nil	2024/2025	High	Community Strategic Plan (BE1)	4
4	Other								
4.1	Endeavour Park Masterplan	Concept masterplan design of Endeavour Park recreational and open space areas	\$70,000	\$70,000	Nil	2024/2025	High	Open Space and Recreation Needs Study R-21 Community Strategic Plan (BE2)	5
4.2	Town Tree Planting Project Stage 1 Strategy and Priority Planting	Strategy to ensure that the urban streetscape is enhanced, sustainable and resilient Commencement of priority planting	\$70,000	\$70,000	Nil	2024/2025	Medium	Community Strategic Plan (BE2)	
4.3	Plan Administration	To implement and make amendments to the plan where required	\$10,000	\$10,000	Nil	Ongoing	High		
	Total		\$600,000	\$600,000	Nil				

NOTE Should grant funding become available for any of the identified infrastructure projects, funding identified above may be reallocated to other projects in accordance with their priority level and/or identification in Council's 2024/2025 Operation Plan and 2024/2028 Delivery Plan.

Attachment 2: Indicative Works Schedule Maps





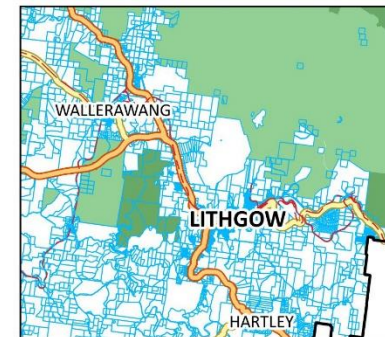


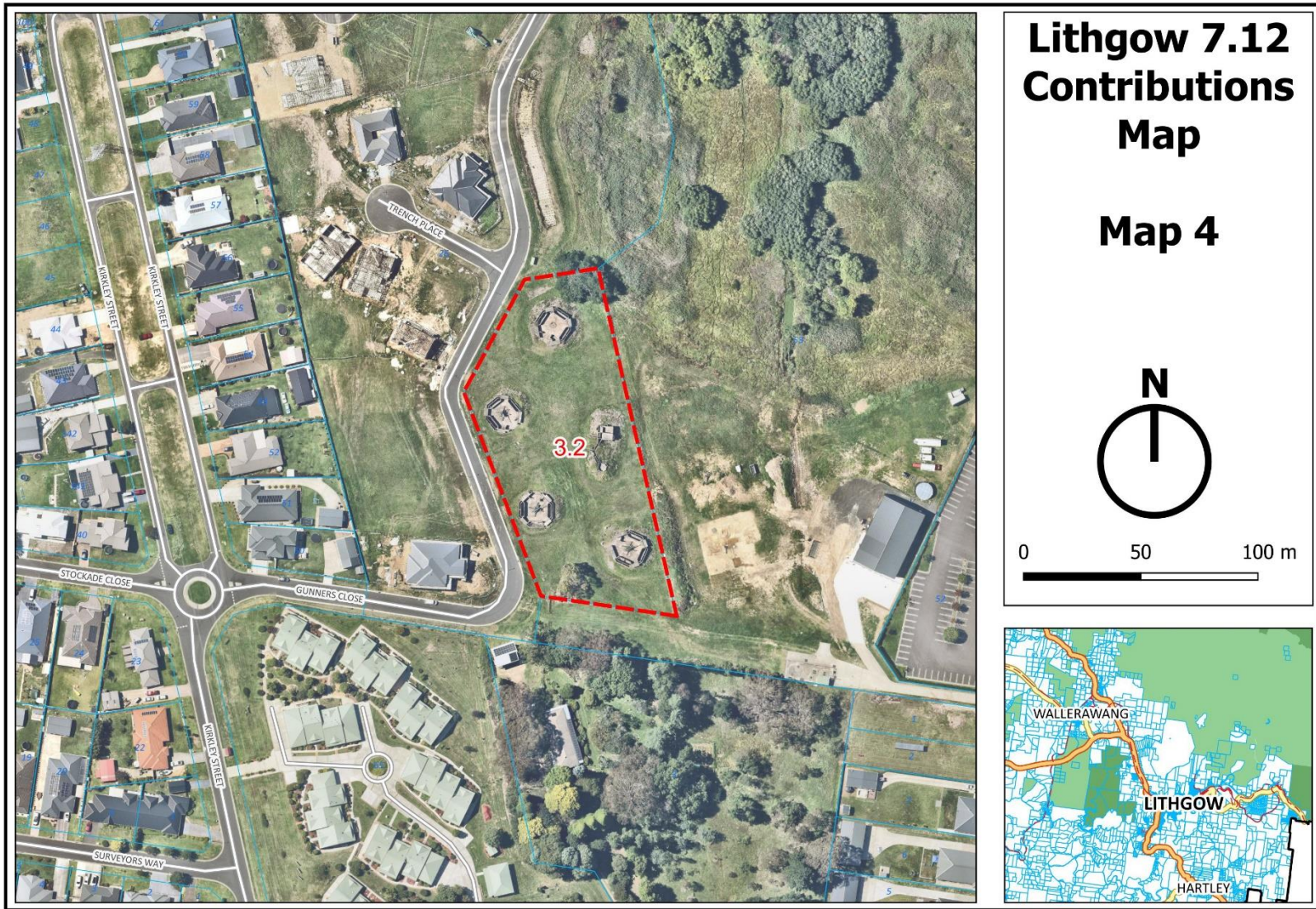
Lithgow 7.12 Contributions Map

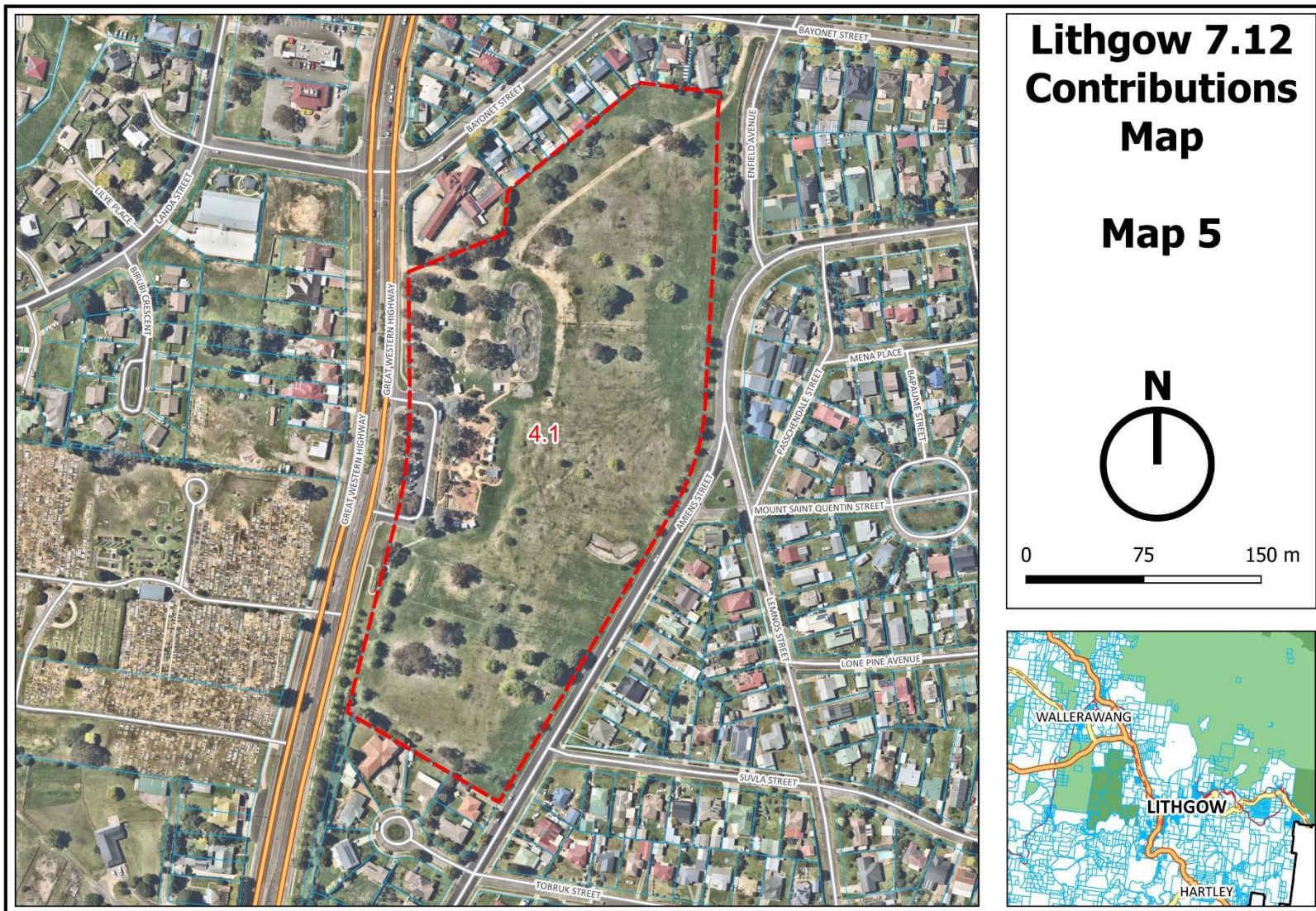
Map 3



0 50 100 m

A horizontal scale bar with markings for 0, 50, and 100 meters.





Attachment 3: Cost Summary Report for Development Value Up To \$1,000,000

Development Application No _____ Reference _____
 Complying Certificate Application No _____
 Construction Certificate No _____ Date _____

APPLICANT NAME:

APPLICANT ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT 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 works	\$
Fittings and Equipment	\$	SUB-TOTAL	\$

Sub total carried forward	\$
Preliminaries and margins	\$
SUB-TOTAL	\$
Consultant Fees	
Other related development costs	
SUB-TOTAL	\$
Goods and services tax	\$
TOTAL DEVELOPMENT COSTS	\$

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I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- calculated the development costs in accordance with the definition of development costs in Clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices
- included GST in the calculation of development cost.

Signed: _____

Name: _____

Position and
Qualifications: _____

Membership No: _____

Date: _____

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Attachment 4: Cost Summary Report for Development Value Exceeding \$1,000,000

Development Application No _____ Reference _____

Complying Certificate Application No _____

Construction Certificate No _____ Date _____

APPLICANT NAME: _____

APPLICANT ADDRESS: _____

DEVELOPMENT NAME: _____

DEVELOPMENT 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	
TOTAL DEVELOPMENT COST	\$		
TOTAL CONSTRUCTION COST	\$		
TOTAL GST	\$		

ESTIMATE DETAILS:

Professional Fess	\$	Excavation	\$
% Development Costs	%	Cost per square metre of site area	\$ /m ²
% Construction Costs	%	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 square metre of commercial area	\$
Construction - Residential	\$	Fit- out - Residential	\$
Cost per square metre of residential area	\$ /m ²	Cost per square metre of residential area	\$ /m ²
Construction - Retail	\$	Fit- out - Retail	\$
Cost per square metre of retail area	\$ /m ²	Cost per square metre of retail area	\$ /m ²

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Coast Management Manuals from the Australian Institute of Quantity Surveyors.
- Calculated the development costs in accordance with the definition of development costs in Clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices
- Included GST in the calculation of development cost
- 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: _____

Position and
Qualifications: _____

Membership No: _____

Date: _____

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