

Warrumbungle Shire Council Section 94A Levy (Indirect Community Infrastructure Contributions) Plan 2009

September 2009



ALL ABOUT **PLANNING** Pty Ltd

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September 2009

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This Plan has been prepared by All About Planning Pty Ltd on behalf of Warrumbungle Shire Council.

In preparing this Plan, All About Planning has relied on information and data provided by Warrumbungle Shire Council and other information as detailed in this document.

Except as otherwise stated, the accuracy and completeness of the information provided to All About Planning has not been independently verified.

For and on behalf of All About Planning Pty Ltd.

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Preamble

Warrumbungle Shire covers an area of 12,380 square kilometres and is located in the central west of NSW. It lies approximately 160 kilometres to the north of Dubbo and 180 kilometres to the south west of Tamworth.

The shire is bounded by Narrabri Shire to the north, Gunnedah, Liverpool Plains and Upper Hunter Shires to the east, Mid Western and Dubbo LGA's to the south and Gilgandra and Coonamble Shires to the west. Coonabarabran is the administrative centre for the Shire and is the largest of the towns in the Shire.

Coonabarabran is located on the Newell Highway approximately 480km northwest of Sydney and is halfway between Melbourne and Brisbane. The Shire has five other major townships – Dunedoo, Coolah, Baradine, Binnaway and Mendooran and a number of smaller villages.

Development Contributions

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

Contributions are used to offset the cost to Council of providing new or embellished public facilities.

This contributions plan authorises Warrumbungle Shire Council or accredited certifiers to impose on Council's behalf, conditions on certain development approvals, requiring payment of a fixed rate levy, also described as an indirect contribution, by the developer.

Council or an accredited certifier may impose as a condition of development consent, a requirement that the applicant pay a levy/contribution based on the percentage of the proposed cost of carrying out the development.

This plan does not affect developments with a proposed cost of \$100,000 or less. Certain other developments are excluded by Ministerial Direction (refer Attachment 1 of this Plan).

Money collected as indirect contributions are used to realise Community Infrastructure as detailed in the Works Schedule included at Part 1.2 of this Plan.

A literature review, including statistical analysis, together with advice from key Council staff has influenced the details and Work Schedule of this Plan.

This plan has been prepared in accordance with statutory requirements and good planning practice.

Environmental Planning & Assessment Amendment Act 2008

The Environmental Planning & Assessment Amendment Act 2008 (the Amendment Act) provides for Councils to obtain contributions in the form of:

- Direct community infrastructure contributions (formerly section 94 contributions),
- Indirect community infrastructure contributions (formerly section 94A levy), and
- Contributions included in voluntary planning agreements.



At the time of preparation of this plan, the development contributions provisions of the Amendment Act had not been commenced. However terms such as direct and indirect contributions reflect the new contributions framework and they have been used in this document as if the Act had commenced.

Direct contributions require significant Council resources to prepare in order to quantify the relationship between certain development and demand for community facilities and infrastructure and to account for the funds received and spent.

Indirect contributions are an alternative development contributions mechanism designed to allow council's to secure funding from developers to deliver community infrastructure where the nexus between development and infrastructure demand, although present, is more difficult to quantify.

Local Councils can collect direct and indirect contributions towards the provision of public infrastructure or some other public purpose.

Community infrastructure is defined under the Amendment Act as public amenities and public services, but does not include water supply or sewerage services.

The Amendment Act places a limitation over the type of infrastructure Council's are able to fund through development contributions and voluntary planning agreements. Money, works in kind, dedication of land or any other material public benefit gained through the above mechanisms are required to be for the provision of 'key community infrastructure', which is defined as:

- Local roads
- Local bus facilities
- Local parks
- Local sporting, recreational and cultural facilities and local social facilities (being community and child care centres and volunteer rescue and volunteer emergency services facilities).
- Local car parking facilities
- Drainage and stormwater management works
- Land for any community infrastructure (except riparian corridors)
- District infrastructure (subject to certain conditions)

Under the Amendment Act, Contributions towards any other community infrastructure cannot be required unless the levying of such a contribution is approved by the NSW Minister for Planning.

The Amendment Act specifies that before a Council approves a contributions plan or decides to enter into a Voluntary Planning Agreement, it must assess the proposal against the following key considerations, as detailed in the Amendment Act:

- Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?
- What will be the impact of the proposed development contribution on the affordability of the proposed development?
- Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?
- Is the proposed development contribution based on a reasonable estimate of the cost of the proposed public infrastructure?
- Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?

(Refer S116D, EP&A Amendment Act 2008)



Warrumbungle Shire Council

S94A Levy Contributions Plan 2009

PART I Summary Schedules

I.1 Contribution Amount

Development Cost	Levy (Indirect Contribution) Amount
Development with a proposed cost up to \$100,000	Nil
Development with a proposed cost of development more than \$100,000 but not greater than \$200,000	0.5 percent of the proposed cost of carrying out of development
Development with a proposed cost of development more than \$200,000	1 percent of the proposed cost of carrying out of development

If a Ministerial Direction under Section 94E of the EP&A Act 1979 is in force, this Plan authorises Council to grant consent to development subject to a condition which is in accordance with that Direction.

Any Ministerial Direction under Section 94E of the Act which has been made and which is in force from time to time is included as Attachment I of this Plan.



1.2 Works Schedule

The following Public Facilities are to be funded under S94A of the Act.

Location	Address	Works/Facility	\$ Cost	Priority
Coonabarabran				
Yuluwirri Kids Long Day Care Centre	2-6 Bandulla Street	New Bike Track	\$20,000	M
Town Pool	John Street	New Landscaping including tree removal and replacement	\$10,000	H
		Shade for children's play area and soft fall area	\$35,000	M
		In ground irrigation system and tank with pump to harvest grey water, pool back wash and roof catchments	\$40,000	L
Waste Depot	Baradine Rd	Additional Landfill Cells	\$20,000	M
Riverbank Castlereagh River	Upstream of Bridge	Walking track	\$20,000	H
Oval Complex		Resurface multipurpose courts	\$40,000	L
Sub-total:			\$185,000	
Coolah				
Town Pool	Binnia Street	Solar Project - tower to heat pool and cover electricity costs as well as generate an electricity credit for other Council facilities during off season	\$43,000	H
		New BBQ Area	\$5,000	M
		Star shade for grassed area	\$17,000	M
Bowen Oval	Binnia Street	Stage 2 Grandstand Upgrade including refurbishment of canteen and toilets	\$30,000	L
Cunningham Street – Charles Street	Cunningham Street – Charles Street	Cycleway	\$50,000	H
McMaster Park	Binnia Street	Softfall under playground equipment	\$20,000	M
Cameron Park		Playground equipment	\$20,000	L
Sub-total:			\$185,000	



Dunedoo				
Town Pool	Wallaroo Street	New Landscaping (tree removal and replacement and other landscape works)	\$8,000	M
		New BBQ Area	\$5,000	H
		Seating and Shade x 3	\$19,500	M
		In ground irrigation system and tank to harvest grey water, pool back wash and roof catchments	\$45,000	M
Jubilee Hall	Bolaro St	Kitchen Refurbishment	\$10,000	H
		Toilet Refurbishment	\$20,000	M
Robertson Oval	Whiteley St	Amenities Refurbishment including Canteen and Toilets	\$30,000	M
		Irrigation and connection to bore	\$40,000	M
Milling Park	Bolaro St	Construction of a Walking Path	\$10,000	H
Waste Depot	Avonside Rd	Bitumen sealing access road	\$10,000	M
Waste Depot	Avonside Rd	Loading Dock	\$5,000	M
Milling Park	Bolaro St	Irrigation System	\$35,000	H
Yarrow Street	Between Tallawang St and Wallaroo St	Kerb and guttering	\$40,000	H
Bullinda Street	Between Wallaroo St and Wargundy St	Kerb and guttering	\$40,000	M
Sub-total:			\$317,500	
Binnaway				
Town Pool	Renshaw St	Seating and shade for supervising parents/timekeepers	\$12,000	H
Oval	Yeulba St	New Canteen/Kiosk - Colourbond shed, slab, shelving and food handling area	\$40,000	L
Hall	David Street	Installation of air conditioning and internal sliding doors	\$40,000	L
River Park	Castlereagh	Walking Track	\$20,000	M



Rneshaw Street	Avenue Rneshaw Street	Stormwater Drainage	\$30,000	M
Sub-total:			\$142,000	
Mendooran				
Town Pool	Pampoo Street	PA System with stereo	\$2,000	H
		BBQ Area	\$5,000	M
		Tree Planting	\$3,000	H
Mechanics Institute	Bandulla Str	Kitchen Refurbishment	\$10,000	L
		Stage Refurbishment	\$20,000	L
Mendooran Park	Bandulla St	Irrigation System	\$20,000	H
Waste Depot	Tooraweenah Rd	Bitumen seal access road	\$15,000	M
Sub-total:			\$75,000	
Baradine				
Memorial Pool	Narren Street	Seating and shade for supervising parents/timekeepers	\$12,000	H
Oval	Walker St	New Canteen/Kiosk - Colourbond shed, slab, shelving and food handling area	\$40,000	L
Hall	Wellington St	Rewiring of electrical system	\$15,000	L
Waste Depot	Gulargambone Rd	Bitumen Seal access road	\$20,000	M
Lions Park	Wellington St	Irrigation	\$10,000	H
Sub-total:			\$97,000	
Total Cost			\$1,001,500.00	

Estimated Staging:

H = Highest Priority Work for each location.



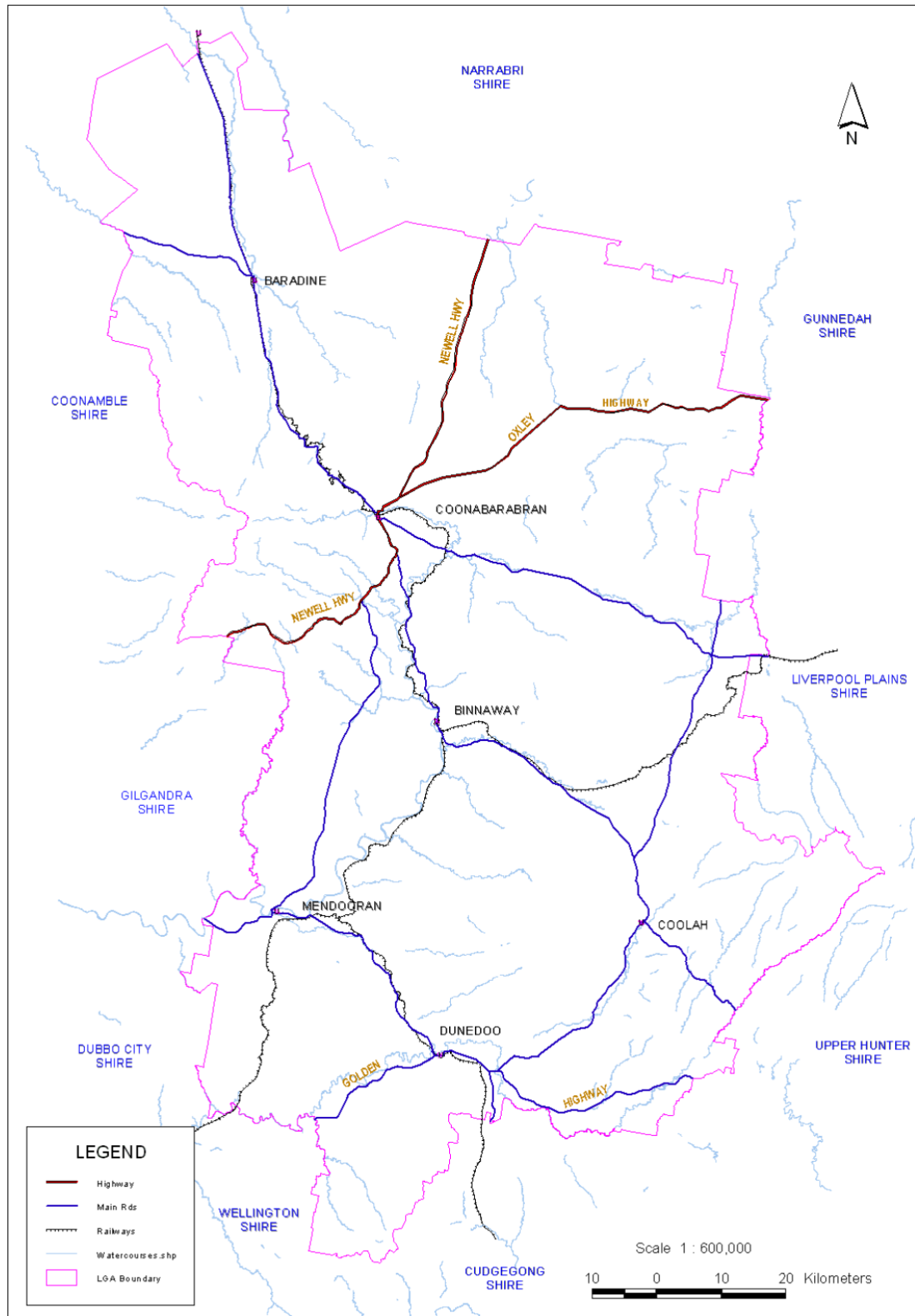
Work to be completed by 2010/2011

- M** = Medium Priority Work for each location
Work to be completed between 2012/2014
- L** = Lowest Priority Work for each location
Work to be completed before 2020.

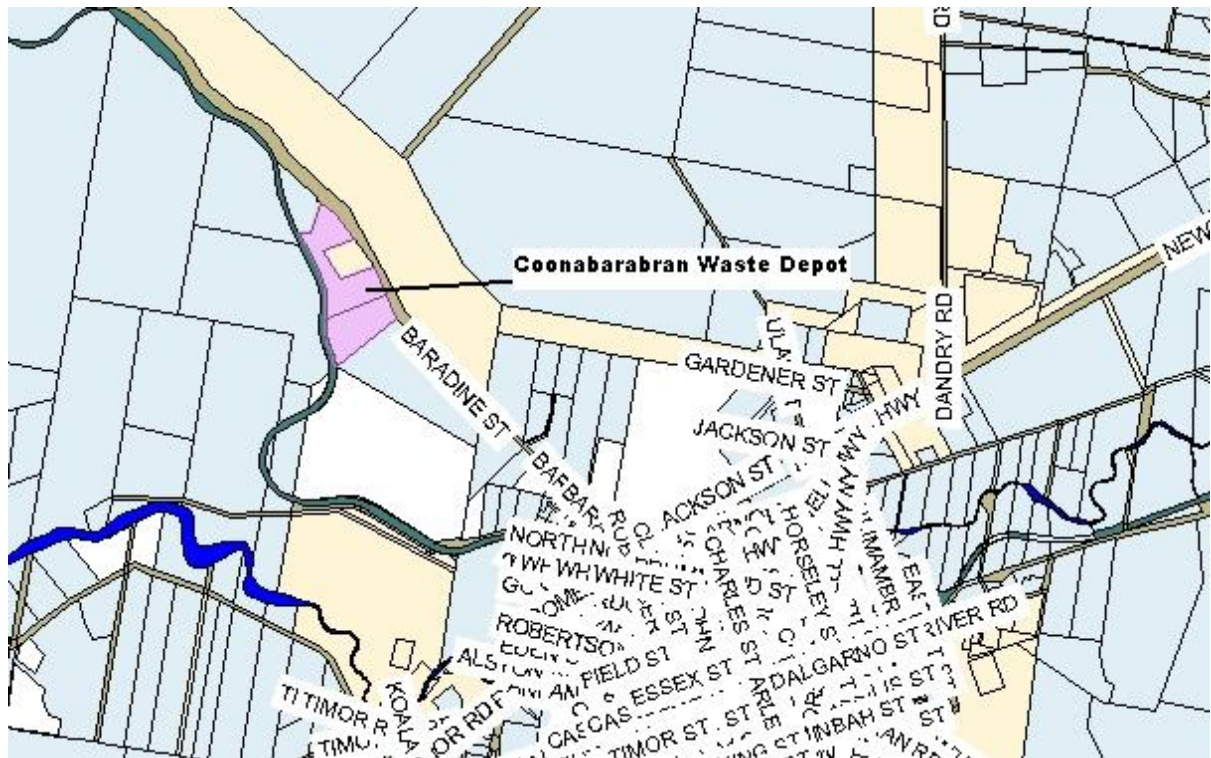


1.3 Works Schedule Maps

Map 1: Location of Key Towns and Villages within the Warrumbungle Shire Area



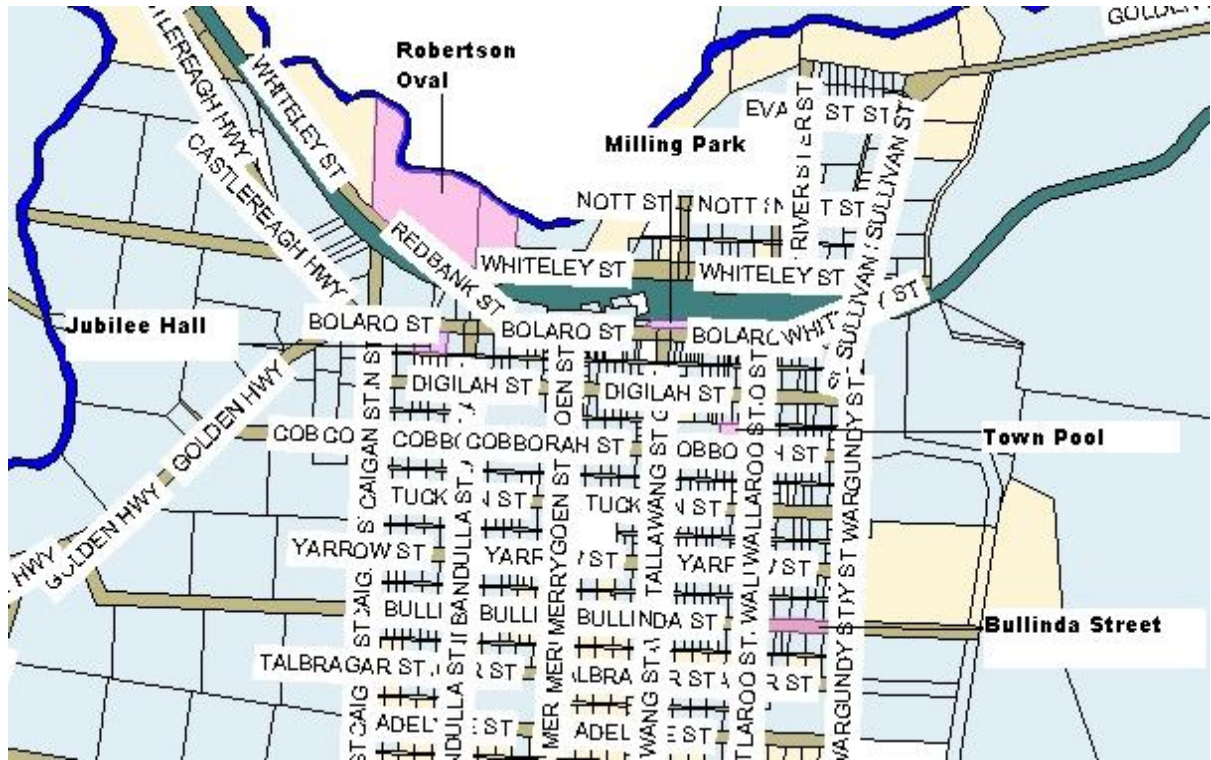
Map 4: Coonabarabran



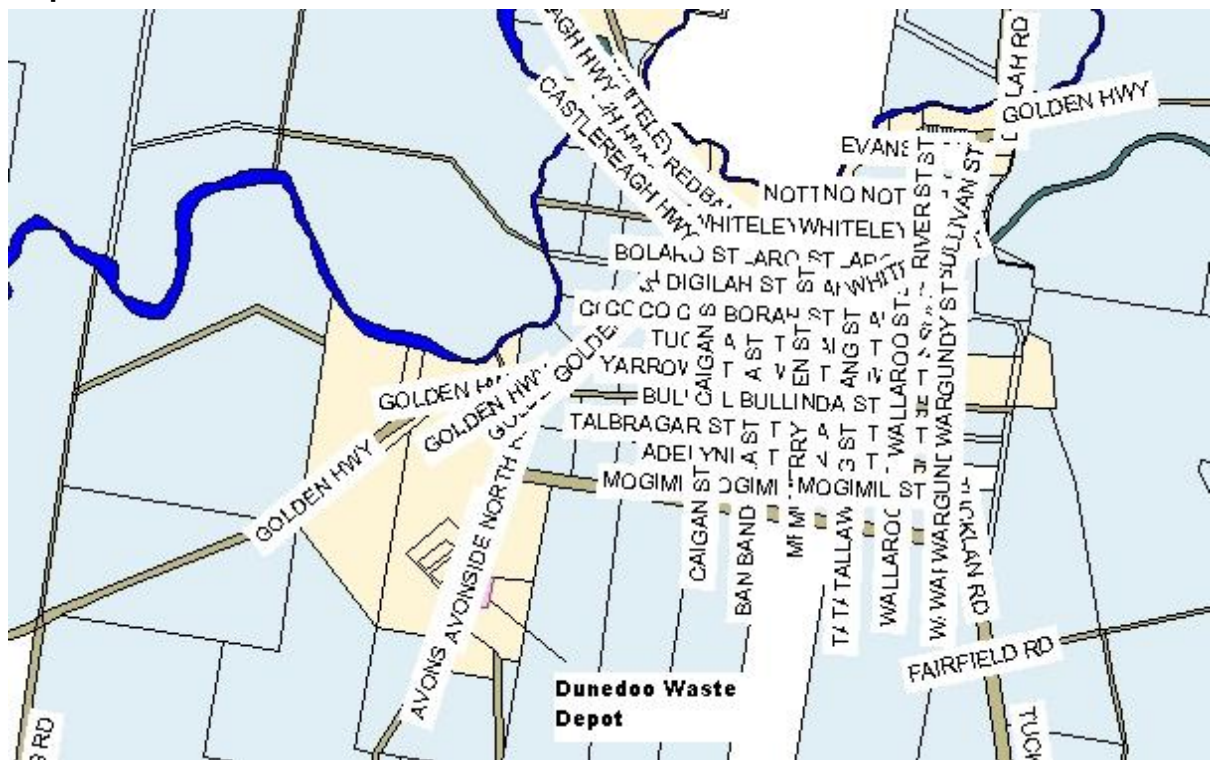
Map 5: Coolah



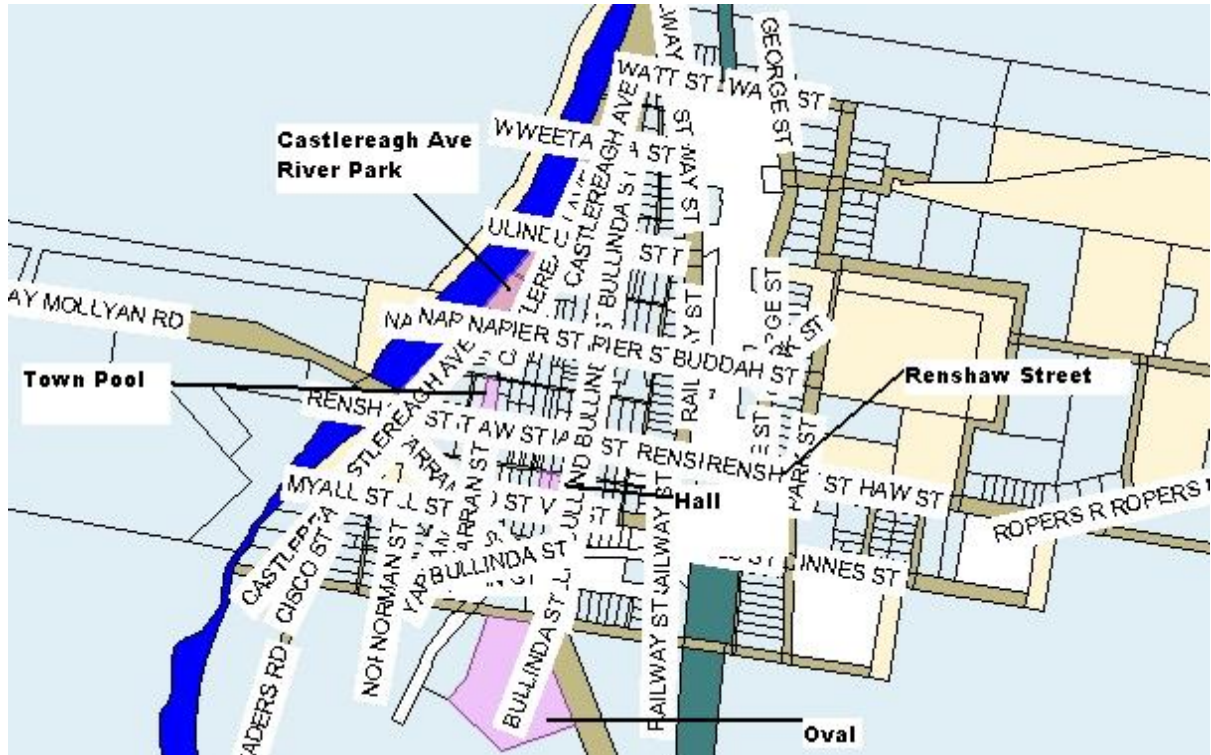
Map 6: Dunedoo



Map 7: Dunedoo

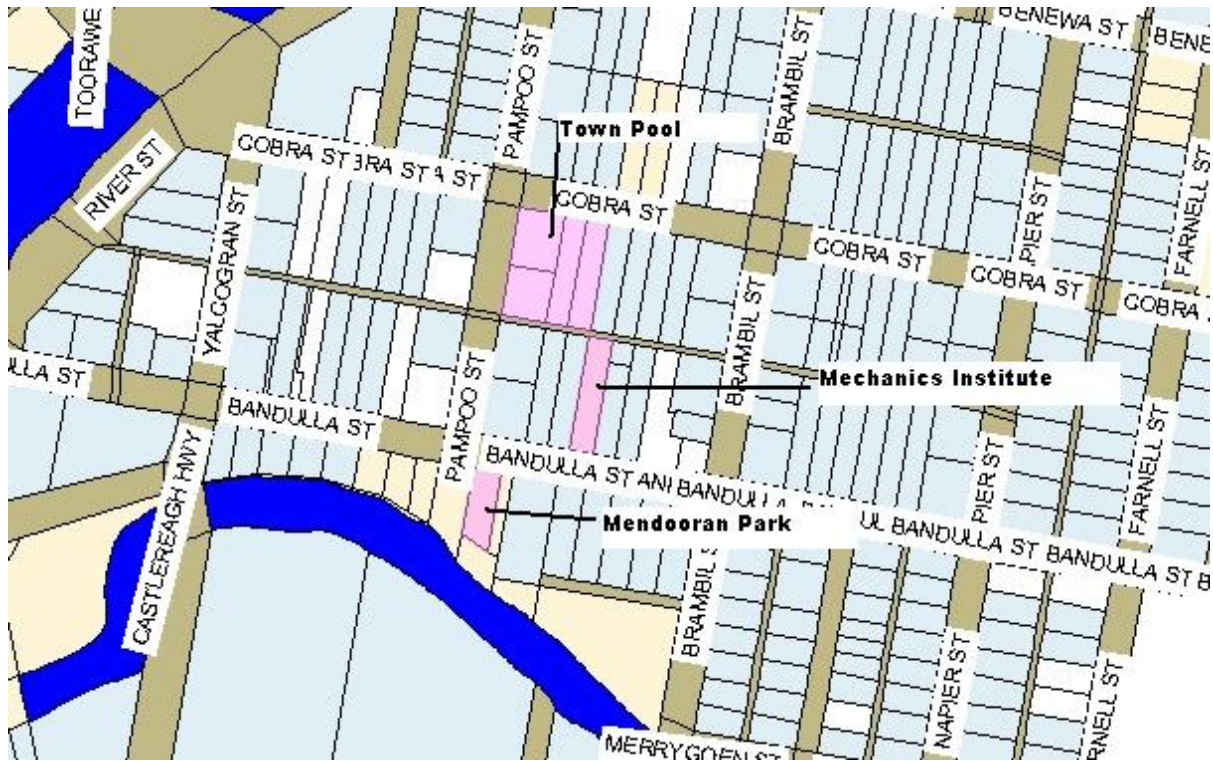


Map 8: Binnaway



Map 9: Mendooran



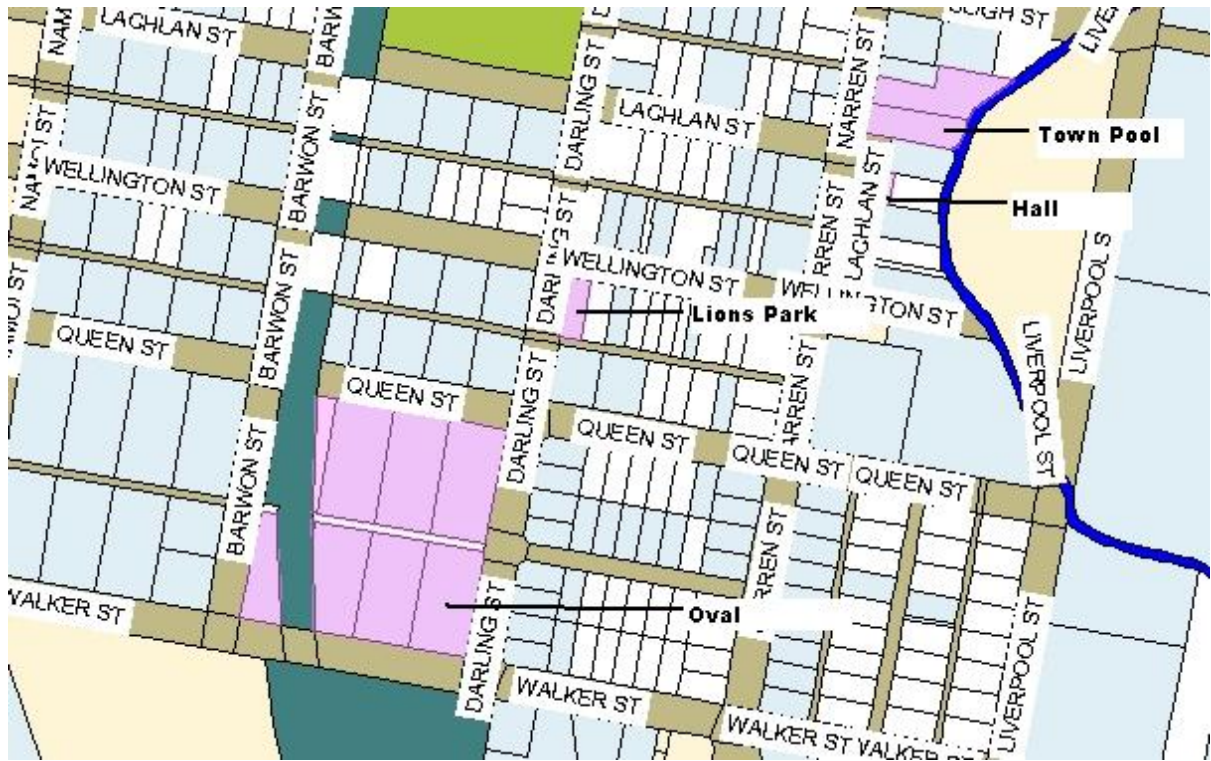


Map 10: Mendooran

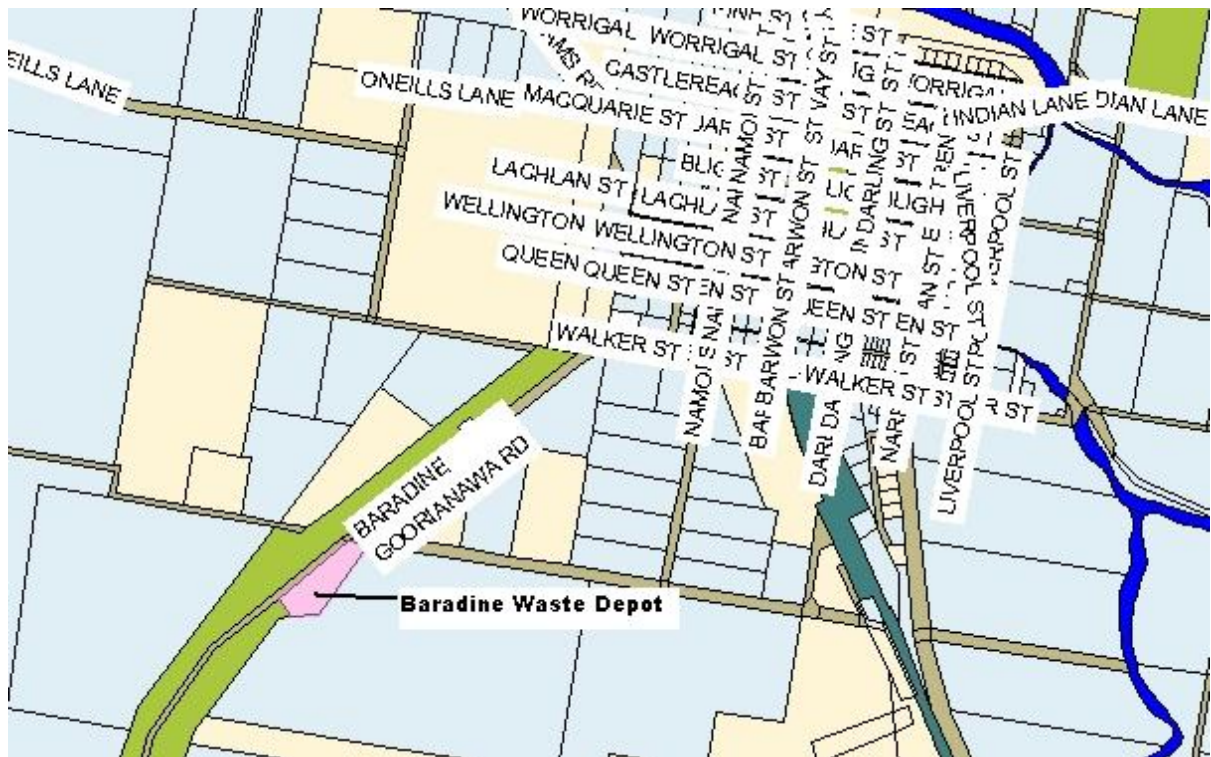


Map 11: Baradine





Map 12: Baradine



PART 2 Expected development and facilities demand

This part broadly discusses the relationship between the expected types of development in Council's area and the demand for additional public amenities and services to meet that development.

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

- Alterations and additions
- Change of use
- Commercial development
- Detached dwellings
- Domestic swimming pools
- Dual Occupancies
- Industrial development
- Mining
- Residential Flat Buildings
- Rural and Rural Residential Dwellings
- Subdivision for Urban, Rural and Rural Residential Purposes

The relationship between expected development and the demand for public facilities has been established through:

- A literature review of relevant community needs analysis and which included an independent analysis of ABS statistics which confirmed a changing demographic for the Warrumbungle Shire ie. a growing elderly population,
- An appreciation and understanding of the fact that new development generates its own demand for community facilities and services, including Warrumbungle Shire's growing tourism sector and the demand that will be generated by any new industrial uses which may be established within the area,
- Warrumbungle Shire Council's assessment of anticipated needs as a result of the changing population and any new population generated by development together with an assessment of those new or upgraded existing public facilities that will be required to meet either the growing and/or changing communities expectations.

Relevant observations from the literature review that was undertaken include:

- Warrumbungle Shire's elderly population is growing. Therefore it is considered sensible to focus investment priorities on facilities suited to elderly people or which are multi-use across various age groups.
 - For example, an upgraded pool (heating, expansion of facilities etc) will be suitable for all the community, a hall will also provide a venue for all the community and upgrades to the public realm will also benefit the entire community.
- Justification for additional youth oriented infrastructure is not founded on current statistics, but rather on the understanding that to sustain viable local communities, all age groups need to be adequately considered and relevant needs addressed. These needs can include



changing expectations within the community about what facilities are essential and commonly provided by Local Government Authorities.

- Improvements to existing public park facilities have the added benefit of supporting the Shire's growing tourism industry, especially in areas where these parks are in a prominent highway location.
- Some existing community facilities are historically important to the local communities in which they are located. For example, the Baradine Memorial Pool and Neilson Park, in Coonabarabran.
- Improving the presentation of each town's main street, entry points and routes is identified in Council's Community Social and Cultural Plan, 2007 as one of the highest priorities, both as an essential factor in the 'well being' of local residents and for attracting new residents, investment and tourism.
- Council's Community Social and Cultural Plan 2007 identified a significant lack of play equipment for children aged 3 years and under.
- Council's Community Social and Cultural Plan 2007 identifies that resident younger persons have expressed a need for pool heating and additional investment in other sporting facilities.
- Local Youth Club Activities appear to be well attended, especially the Club in Coonabarabran - Youth Clubs are located in Coonabarabran, Dunedoo (in Jubilee Hall) and Coolah.
- Warrumbungle Shire comprises a relatively large area and incorporates a number of small but important towns. The large size of the Shire and relatively small population makes sustained investment in local community facilities a difficult task as these facilities compete with road maintenance and other funding priorities.
- Despite funding limitations, it is reasonable for Council to focus on community infrastructure investment priorities that will aid social cohesion and interaction between community members of all ages and which will support the economic and social prosperity of the Shire.

The levying of a s94A contribution on applicable development will enable Council to provide quality public community facilities to meet the expectations of the existing and any new residents of Warrumbungle Shire.

The public facilities to be provided in response to this facilities demand assessment, community need and expected future development are set out in Part I of this Plan



PART 3 Administration and Operation

3.1 What is the name of this plan?

This Plan is called the *Warrumbungle Shire Council Section 94A Levy (Indirect) Development Contributions Plan 2009*.

3.2 Land to which this Plan applies

This Plan applies to all land within the local government area of Warrumbungle Shire.

3.3 When does this plan commence?

This Plan commences on **[insert date of Council adoption]**.

Development applications considered and determined on or after this date will be subject to the provisions of this Plan.

3.4 Purposes of this plan

The purposes of this Plan are:

- to authorise the imposition, as a condition of development consent, a requirement that the applicant pay to the Council a development contribution determined in accordance with this Plan,
- to require a certifying authority (the Council or an accredited certifier) to impose, as a condition of issuing a complying development certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this Plan, and
- to govern the application of money paid to the Council under a condition authorised by this Plan, and
- to assist Council in providing appropriate public facilities required to maintain and enhance amenity and service delivery within the Warrumbungle Shire area

3.5 Definitions

In this Plan unless the context or subject matter otherwise indicates or requires:

ABS means the Australian Bureau of Statistics,

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

Council means the Council of the Warrumbungle Shire,



Development Contributions means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act,

Levy means a levy under s94A of the Act authorised by this Plan,

Minister means the Minister administering the Act,

Public Facility means a public amenity or public service,

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

3.6 Existing Contributions Plan

Warrumbungle Shire Council has historically sought development contributions by way of direct (S94) contributions.

To levy a direct contribution on development, Council is required to show a link (called a nexus) between the development being levied and an increased demand for the facilities the levy would contribute to.

Warrumbungle Shire's S94 plan (direct contributions plan) was prepared in March 1998 and covers the village zone of Coonabarabran and the rural zone of the previous Coonabarabran Shire Council.

This S94A Plan does not amend or repeal the S94 Plan applying to the Village and Rural Zoned land within the previous Coonabarabran Shire Council.

It is noted however in accordance with Section 94A of the Act (as set out below) that a consent authority cannot impose a condition on the same development consent requiring payment of a contribution under both S94A and S94 of the Act.

“94A Fixed development consent levies

- (1) *A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*
- (2) *A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
 - (a) *the Minister, or*
 - (b) *a development corporation designated by the Minister to give approvals under this subsection.*
- (3) *Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*



- (3) 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.
- (4) The regulations may make provision for or with respect to levies under this section, including:
- (a) the means by which the proposed cost of carrying out development is to be estimated or determined, and
- (b) the maximum percentage of a levy.”

3.7 Alternatives to Payment of a Development Contribution (Voluntary Planning Agreement)

The only alternative to payment of a monetary contribution is for an applicant to offer to enter into a Voluntary Planning Agreement with Council.

A planning agreement can detail an offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes.

The contribution/s proposed by an applicant under a planning agreement may be additional to or instead of paying a contribution in accordance with a condition of development consent authorised by this Plan.

Any offer to enter into a planning agreement, together with a copy of the proposed agreement should accompany the relevant development application.

A planning agreement can only be entered into voluntarily and cannot be entered into, amended or revoked unless public notice has been given and an explanatory note regarding the proposal has been made for inspection by the public for a period of at least 28 days.

Council cannot refuse a development application on the basis that the applicant does not want to enter into a voluntary planning agreement with them.

The adoption of this indirect contributions plan does not mean that Council will not consider either:

- an additional contribution to the indirect contributions detailed in this plan as offered in a planning agreement or
- an alternative to imposition of an indirect contribution, with respect to a proposed development, as offered in a planning agreement.

This is especially the case where the nexus between a proposed development and the demand for new and augmented infrastructure can be clearly established.

Consideration of a voluntary planning agreement as an alternative to payment of an indirect contribution as detailed in this Plan has the advantage to the applicant of being able to offer contributions towards what they may consider to be mutually beneficial community outcomes. Furthermore, significant new or upgraded infrastructure may be provided in a shorter timeframe than could otherwise be achieved given the Shire’s average number of development applications and cost of new development proposals.



If Council agrees to enter into a planning agreement, it may impose a condition of development consent requiring the agreement to be entered into and performed.

If Council does not agree to enter into a planning agreement, it may grant consent subject to a condition authorised by this plan requiring payment of a contribution.

A planning agreement must satisfy all statutory (legal) requirements, including:

- A description of the land to which the agreement applies.
- A description of the change to or the making or revocation of the environmental planning instrument, or the development, to which the agreement applies.
- The nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made.
- In the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of Divisions 2 and 3 or Part 5B for requiring a direct S94 Contribution.
- If the agreement does not exclude the application to the development of provisions of Division 2 of Part 5B for requiring a direct contribution, whether benefits under the agreement are or are not to be taken into consideration in connection with requiring such a contribution.
- A mechanism for resolution of disputes under the agreement.
- The enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the developer.

A connection between development to which a planning agreement applies and the object of expenditure of money required to be paid by the agreement is not required.

3.8 What does Section 94A of the Act provide?

Section 94A of the Environmental Planning and Assessment Act 1979 provides as follows:

- (1) *A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*
- (2) *A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
 - (a) *the Minister, or*
 - (b) *a development corporation designated by the Minister to give approvals under this subsection.*



- (3) *Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*
- (4) *A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.*

3.9 Types of Development to which this Plan applies

This Plan applies to all applications for development consent and applications on land to which this Plan applies that requires development consent or a complying development certificates made under Part 4 of the Act in respect of development on land to which this Plan applies.

In relation to complying development certificates the Council or an accredited certifier must, in determining an application for a complying development certificate, impose a condition which requires the payment of a monetary contribution in accordance with this Plan.

This Plan does not apply to development specifically excluded by any Ministerial Direction issued under the Act. At the time of preparing this plan, such a direction had been issued.

A copy of this direction is contained in the Attachments to this Plan.

3.10 Relationship to other contributions plans

Subject to the Act, this Plan does not affect any other contributions plan that has been approved by the Council and is in force.

3.11 Certifying Authority Obligations

Complying Development Certificates

This Plan requires a certifying authority (being either Council or an accredited certifier) to certify that any development contributions have been paid to Council prior to the issue of a complying development certificate in respect of that development.

The amount of the contribution that the accredited certifier must impose is the amount determined in accordance with this Plan.

It is the responsibility of the principal certifying authority to calculate and impose the development contribution conditions to complying development certificates.

Deferred payment of any required contributions are not acceptable.



If an accredited certifier fails to comply with this requirement then the consent authority may impose the required condition on the complying development certificate and it has effect as if it had been imposed by the accredited certifier.

Any Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this Plan.

Construction Certificates

An accredited certifier issuing a construction certificate must certify that development contributions have been paid to Council prior to issue of the certificate.

The accredited certifier must ensure that the applicant provides a receipt/s confirming that the required contributions have been fully paid. Copies of such receipts must be included with copies of the certified plans provided to Council.

Where a work in kind, material public benefit, dedication of land and/or a deferred payment arrangement has been agreed by the consent authority, the Council will issue a letter confirming the alternative payment method.

3.12 Determining the Cost of Development

Clause 25J of the Regulation sets out how the proposed cost of carrying out development is to be determined and states:

25J Section 94A 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 94A 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.*

Cost Estimate Report

A development application or an application for a complying development certificate is to be accompanied by a report, prepared at the applicant's cost in accordance with this clause, setting out an estimate of the proposed cost of carrying out the development for the purposes of clause 25J of the Regulation.

A standard cost estimate report is included at Attachment 2.

Where the estimate of the proposed cost of carrying out the development is likely to be greater than \$100,000 this report must be prepared by a quantity surveyor registered by the Australian Institute of Quantity Surveyors engaged on behalf of the applicant, at the applicant's cost (or a person who can demonstrate equivalent qualifications).

Council may, at the applicant's cost, engage a person to review the estimate of the proposed cost of development submitted by an applicant.

3.14 Adjusted Contributions

Contributions will be adjusted at the time of payment in accordance with the quarterly Consumer Price Index (CPI) (All Groups Index for Sydney) published by the Australian Bureau of Statistics (ABS).



In this regard, applicants or any other person entitled to act upon a consent, should be aware that contributions payable may be more than that stipulated in any development consent, taking into account CPI.

Contributions required as a condition of consent under the provisions of this plan will be adjusted at the time of payment of the contribution, in accordance with the following formula.

Indexed Contribution

$$\text{Amount required at time of payment (ICA)} = \frac{\text{Original Contribution (C)} \times \text{CPIp}}{\text{CPIc}}$$

The adjustment amount is determined will be made to reflect quarterly variations in the *Consumer Price Index All Group Index Number for Sydney*, between the date the contribution was determined by the Council and the date the contribution (levy) is required to be paid.

Where:

CPIp = The *Consumer Price Index, All Groups Sydney*, as published by the Australian Bureau of Statistics and which applies at the time of payment. This is usually the preceding quarters CPI as the CPI figures are not generally released until after the end of the current quarter.

CPIc = The *Consumer Price Index, All Groups Sydney*, as published by the Australian Bureau of Statistics and which applied at the time of issue of the development consent.

ICA = Indexed Contribution Amount required at time of payment to Council

C = Original Contribution Amount required by Condition of Consent

NOTE: In the event that the CPI, at the time the development contribution is to be paid, is less than the CPI at the time the development was approved, the amount of the development contribution as specified in the relevant condition of consent shall be taken to be the required contribution payment amount.

Worked Example

In this example the cost of development is taken to be \$500,000 with a condition of consent requiring payment of a \$5,000.00 indirect development contribution being issued by Council on 18th May 2008. This condition was applied by Council in the June 2008 quarter. (Any date from 1st April to 30 June is the June quarter.)

In this example the time of payment of the contribution (prior to release of construction certificate) is 18th February 2009. This date is the March quarter but the CPI figures for this quarter are not published yet, hence the preceeding December 2008 quarter CPI is used - being the most current published CPI figure as highlighted in the table below from the ABS.

The December 2008 CPI All Groups Sydney is: 165.5

The June 2008 CPI All Groups Sydney is: 164.1



1 ALL GROUPS, Index numbers(a)

Period	Sydney	Melbourne	Brisbane	Adelaide	Perth	Hobart	Darwin	Canberra	Weighted average of eight capital cities
2005-06	152.1	150.2	153.2	155.2	150.1	151.8	146.5	151.9	151.7
2006-07	156.2	154.2	158.3	159.2	156.1	155.7	152.9	156.4	156.1
2007-08	160.9	159.6	164.8	164.4	161.7	160.3	158.3	162.0	161.4
2008-09	165.8	164.1	171.0	169.7	166.6	164.9	163.6	167.5	166.4
2005									
June	149.0	146.9	150.0	151.8	146.3	148.8	143.2	147.8	148.4
September	150.5	148.6	150.9	153.4	147.8	150.1	144.7	149.7	149.8
December	151.0	149.2	152.1	154.1	149.0	151.0	145.4	150.9	150.6
2006									
March	152.2	150.5	153.5	155.6	150.5	152.2	146.7	152.2	151.9
June	154.7	152.6	156.2	157.6	153.2	154.0	149.2	154.9	154.3
September	156.1	153.7	157.5	159.3	154.9	155.1	151.8	156.0	155.7
December	155.8	153.5	157.3	158.8	155.5	154.7	152.6	155.6	155.5
2007									
March	155.6	153.8	158.0	158.4	155.8	155.4	152.6	155.9	155.6
June	157.4	155.6	160.2	160.3	158.0	157.4	154.7	158.0	157.5
September	158.1	156.9	161.7	161.5	158.9	157.9	156.6	159.2	158.6
December	159.5	158.5	163.4	163.1	160.2	159.2	157.1	160.8	160.1
2008									
March	161.7	160.6	165.6	165.5	162.5	161.3	158.5	163.0	162.2
June	164.1	162.5	168.4	167.6	165.1	162.9	160.8	165.0	164.6
September	165.9	164.4	170.8	169.8	166.7	164.7	163.6	167.5	166.5
December	165.5	163.5	170.4	169.3	166.2	164.4	162.9	166.8	166.0
2009									
March	165.6	163.9	170.8	169.3	166.0	164.8	163.0	167.4	166.2
June	166.3	164.4	171.8	170.3	167.4	165.7	164.8	168.4	167.0

(a) Base of each index: 1989-90 = 100.0.

ABS Web Link to regularly updated All Groups Sydney CPI:

<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6401.0Main%20Features6Jun%202009?open=document&tabname=Summary&prodno=6401.0&issue=Jun%202009&num=&view=>

$$\text{Indexed contribution Amount (ICA)} = \frac{5,000 \times 165.5}{164.1} = \$5,042.66$$

3.13 Financial and Public Accountability

Money paid to the Council under a condition authorised by this Plan is to be applied by the Council towards meeting the cost of one or more of the public facilities that will be or have been provided within the area as listed in the Works Schedule under Part I of this Plan. The locations of those facilities are shown on the maps included in Part I of this Plan.



Council is required to comply with a range of financial and public accountability requirements in relation to development contributions, including:

- 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

3.14 Expenditure Priorities

Subject to s93E(2) of the Act, the public facilities listed in the Works Schedule at Part I of this Plan are to be provided in accordance with the priorities and staging set out in that Schedule.

Maps indicating the location of the specific public facilities listed in the Works Schedule are included in Part I of this Plan.

3.15 Pooling of Contributions

This Plan authorises monetary community infrastructure contributions paid:

- for different purposes in accordance with the conditions of various development consents authorised under this plan; and
- for different purposes under any other contributions plan approved by the council

to be pooled and applied progressively for those purposes.

In deciding whether to pool and progressively apply contributions funds, Council must be satisfied that this action will not unreasonably prejudice the purposes for which the monetary contribution was originally paid.

3.16 Obligation of Certifying Authorities

Pursuant to Clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has confirmed that any condition requiring the payment of a levy before work is carried out in accordance with the consent is satisfied ie. that the contribution has been paid to Council.

The certifying authority must cause the applicant's receipt for payment of the levy to be provided to the Council at the same time as the other documents required to be provided under clause 142(2) of the Regulation.

3.17 When is the Contribution to be Paid?



A contribution required to be paid by a condition authorised by this Plan must be paid to the Council at the time specified in the condition of consent that imposes the contribution.

A sample condition of development consent is:

Condition ##

Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Warrumbungle Shire Section 94A (Indirect) Contributions Plan 2009, a contribution of \$ [insert total amount] shall be paid to Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Warrumbungle Shire Section 94A (indirect) Development Contributions Plan 2009.

The contribution is to be paid before [Insert requirement].

If no time is specified, the contribution must be paid prior to issue of the first certificate in respect of the development under the Act - this being either issue of a construction certificate or complying development certificate,

3.18 Deferred or Periodic Payment of Contributions

Council will not allow deferred or periodic payment of contributions (levies) authorised by this Plan.

3.19 Review and Update of Plan

This Plan will be reviewed on a regular basis to ensure the Plan's Works Schedule responds to the evolving infrastructure and community needs of the Warrumbungle Shire population.

Pursuant to clause 32(3) of the Regulation, Council may make certain minor adjustments or amendments to the Plan without prior public exhibition and adoption by Council. These could include minor typographical corrections.



Attachment I: RELEVANT MINISTERIAL DIRECTION/S



ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTION UNDER SECTION 94E

I, the Minister for Planning, under section 94E 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 94A 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 94A 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 94 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.



FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.
[Dated: 10 November 2006]

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



Attachment 2: COST SUMMARY REPORT & QUANTITY SURVEYORS REPORTS



Sample Cost Summary Report

Cost Summary Report

[Development Cost no greater than \$ [INSERT FIGURE HERE]

DEVELOPMENT APPLICATION No. REFERENCE:

COMPLYING DEVELOPMENT CERTIFICATE APPLICATION No.

CONSTRUCTION CERTIFICATE No. DATE:

APPLICANT'S NAME:

APPLICANT'S 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 work	\$
Fittings and equipment	\$	Sub-total	\$

Sub-total above carried forward	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

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

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____



Sample Quantity Surveyors Report

Registered* Quantity Surveyor's Detailed Cost Report

[Development Cost in excess of \$ [INSERT FIGURE HERE]]

*A member of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No. REFERENCE: COMPLYING DEVELOPMENT CERTIFICATE APPLICATION No. CONSTRUCTION CERTIFICATE No. DATE:

APPLICANT'S NAME:

APPLICANT'S 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 Fees	\$	Excavation	\$
% of Development Cost	%	Cost per square metre of site area	\$ /m ²
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$ /m ²
Cost per square metre of site area	\$ /m ²	Cost per space	\$ /space
Construction – Commercial	\$	Fit-out – Commercial	\$
Cost per square metre of commercial area	\$ /m ²	Cost per m ² of commercial area	\$ /m ²
Construction – Residential	\$	Fit-out – Residential	\$
Cost per square metre of residential area	\$ /m ²	Cost per m ² of residential area	\$ /m ²
Construction – Retail	\$	Fit-out – Retail	\$
Cost per square metre of retail area	\$ /m ²	Cost per m ² of retail area	\$ /m ²

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors.
- calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions 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: _____

Name: _____

Position and Qualifications: _____

Date: _____

