



**SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN
2005 – 2021**

ANDREWS NEIL PTY LTD
ARCHITECTURE * PLANNING * LANDSCAPE * ENVIRONMENT *
URBAN DESIGN

24 January 2006

Amended 15 March 2007 Consistent with Direction under 94E 10/11/06
October 2009 Definitions

MID-WESTERN REGIONAL COUNCIL SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN

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Mid-Western Regional Council Section 94A Development Contributions Plan

Issue	Date	Description	By
A	12/09/05	Draft s94A Plan issued to Client	VL
B	13/10/05	Draft s94A Plan issued to Client for Council report	VL
C	31/10/05	Incorporation of revised population figures	VL
D	15/03/07	Direction under 94E 10/11/06	ED
E	24/3/11	Amend Definitions consistent with Oct 09 change	ED

PART A: SUMMARY SCHEDULES

The following summary schedules are included in this plan:

- Works program
- Completed Works
- Summary of levy by category.

The works schedule identifies the public facilities for which Section 94A (s94A) levies will be required. Schedule 1 identifies the works schedule adopted in 2005 and a summary of the expenditure on the respective items. Figure 1 outlines the catchments for the s94A Plan.

Levies paid to Council will be applied towards meeting the cost of provision of augmentation of new public facilities, which will be provided by Council over the next 16 years, as well as the estimated cost of provision and timing.

Schedule 1: Public Facilities for which S94A Levies will be sought

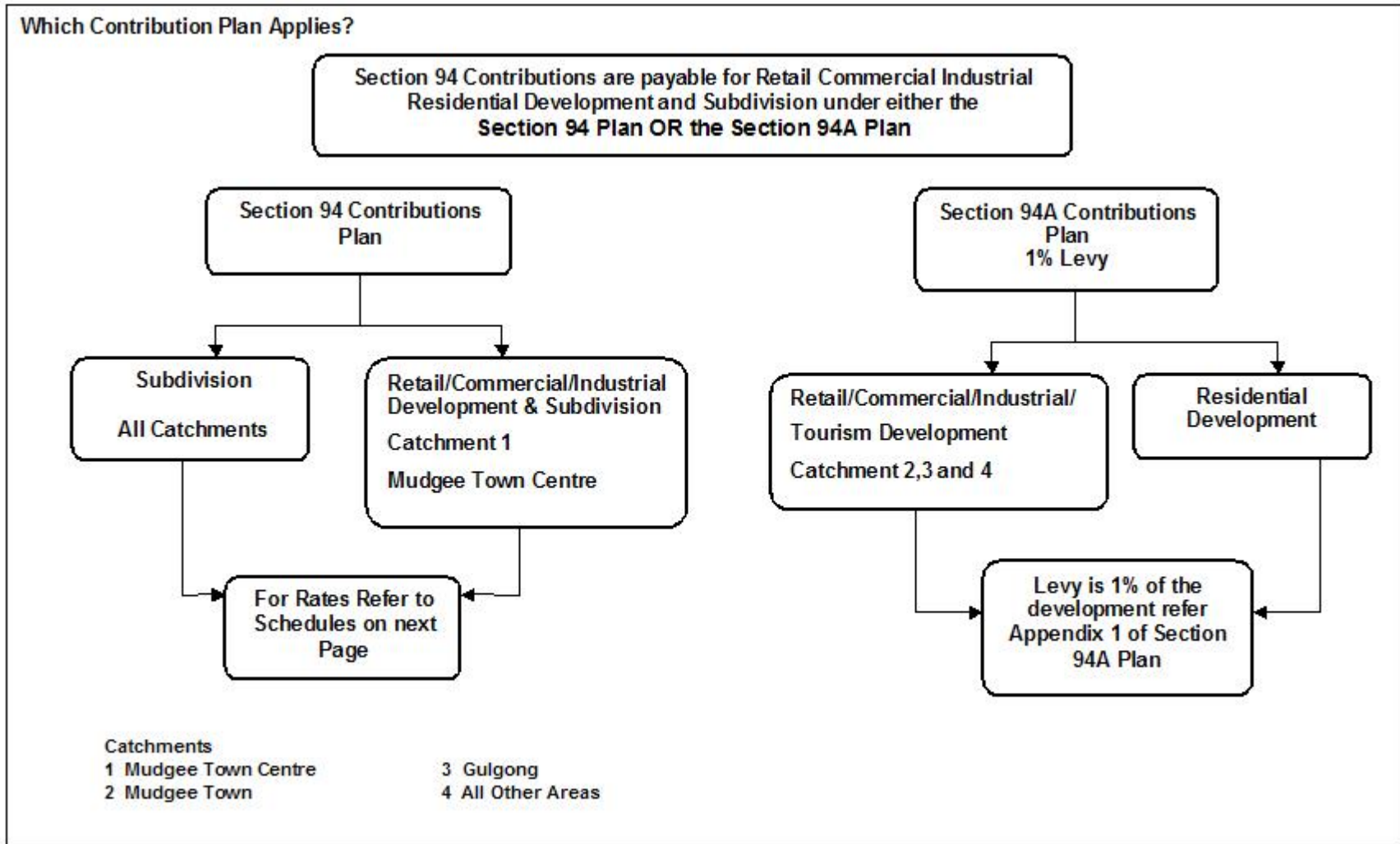
Public Facilities	Estimated Costs (\$)	Estimated Time Frame	Priority
Traffic Management and Road Works			
Local Roads Shoulder Sealing	765,451	2003/04 – 20013/14	1
Local Roads Seal Extensions	3,910,665	2003/04 – 20013/14	1
Regional Roads Seal Extensions	611,350	2003/04 – 20013/14	Refer Section 94 Plan
Roadworks	1,738,546	2003/04 – 20013/14	Refer Section 94 Plan
Open Space and Community Facilities			
Library Building	1,973,250		Refer Section 94 Plan
TOTAL	8,999,262		

Schedule 2: Summary Schedule for section 94A contributions plan

Type of Development	Proposed Cost of Development	Levy (%)
Commercial and Retail Development in Catchments 2,3 and 4	Up to \$100,000	Nil
Industrial Development in Catchments 2,3 and 4 not including large industry such as mines, extractive industries which are dealt within the Section 94 Plan	\$100,001 - \$200,000	0.5
Residential development (excluding subdivision) that has the potential to increase the population including multi-unit dwellings, integrated development, additions to dwellings increasing floorspace, etc	more than \$200,000	1
Tourism development with a total construction cost less than \$20 million		

Irrespective of the proposed cost the direction also states that a levy under section 94A cannot be imposed on development:

- For the purpose of disabled access
- For the sole purpose of affordable housing
- For the purpose of reducing the consumption of mains supplied potable water, or reducing the energy consumption of a building
- For the sole purpose of adaptive reuse of an item of environmental heritage, or
- Other than the subdivision of land, where a condition under section 94 of the EP&A Act has been imposed under a previous consent relating to the subdivision of land on which the development is proposed to be carried out.



PART B: EXPECTED DEVELOPMENT AND DEMAND FOR PUBLIC FACILITIES

Development described in Schedule 2 creates a demand on public infrastructure. Services such as road infrastructure, traffic management and open space works are required to meet the demand and will benefit such development.

PART C: ADMINISTRATION AND OPERATION OF THE PLAN

1.0 Name of the Plan

This development contributions plan is called the "Section 94A Development Contributions Plan 2005 - 2021 for Mid-Western Regional Council". The plan will be reviewed on an annual basis and any amendments will be recorded in the following table:

Table 1 - Amendments

Plan Title	Amendments	Adoption Date	Version Number
Mid-Western Regional Council Section 94A Development Contributions Plan 2005 - 2021	New Plan	Adopted 18/1/06 commenced 23/1/06	1
Mid-Western Regional Council Section 94A Development Contributions Plan 2005 - 2021	Consistent with Direction 94E 10/11/06	commenced 15/3/07	2
Mid-Western Regional Council Section 94A Development Contributions Plan 2005 - 2021	Amendment to definitions to delete Utility service and insert Telecommunication towers	Commenced	3

2.0 Area the Plan Applies

This plan applies to land within the Local Government Area of Mid-Western Regional Council and as shown on Figure 1. The Catchments for the s94A plan are as follows:

Table 2 - Catchments

Catchment	Area
1	Mudgee Town Centre
2	Mudgee Residential Area
3	Gulgong
4	All other Areas

This development contributions plan applies to applications for development consent and applications for complying development certificates under Part 4 of the *Environmental Planning and Assessment Act, 1979*. The rates for different types of development are set out below:

Type of Development	Proposed Cost of Development	Levy (%)
<ul style="list-style-type: none"> • Commercial and Retail Development in Catchments 2,3 and 4 • Industrial Development in Catchments 2,3 and 4 not including large industry such as mines, extractive industries which are dealt within the Section 94 Plan • Residential development (excluding subdivision) that has the potential to increase the population including multi-unit dwellings, integrated development, additions to dwellings increasing floorspace, etc • Tourism development with a total construction cost less than \$20 million 	Up to \$100,000 \$100,001 - \$200,000 more than \$200,000	Nil 0.5 1

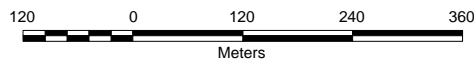
3.0 Commencement of the Plan

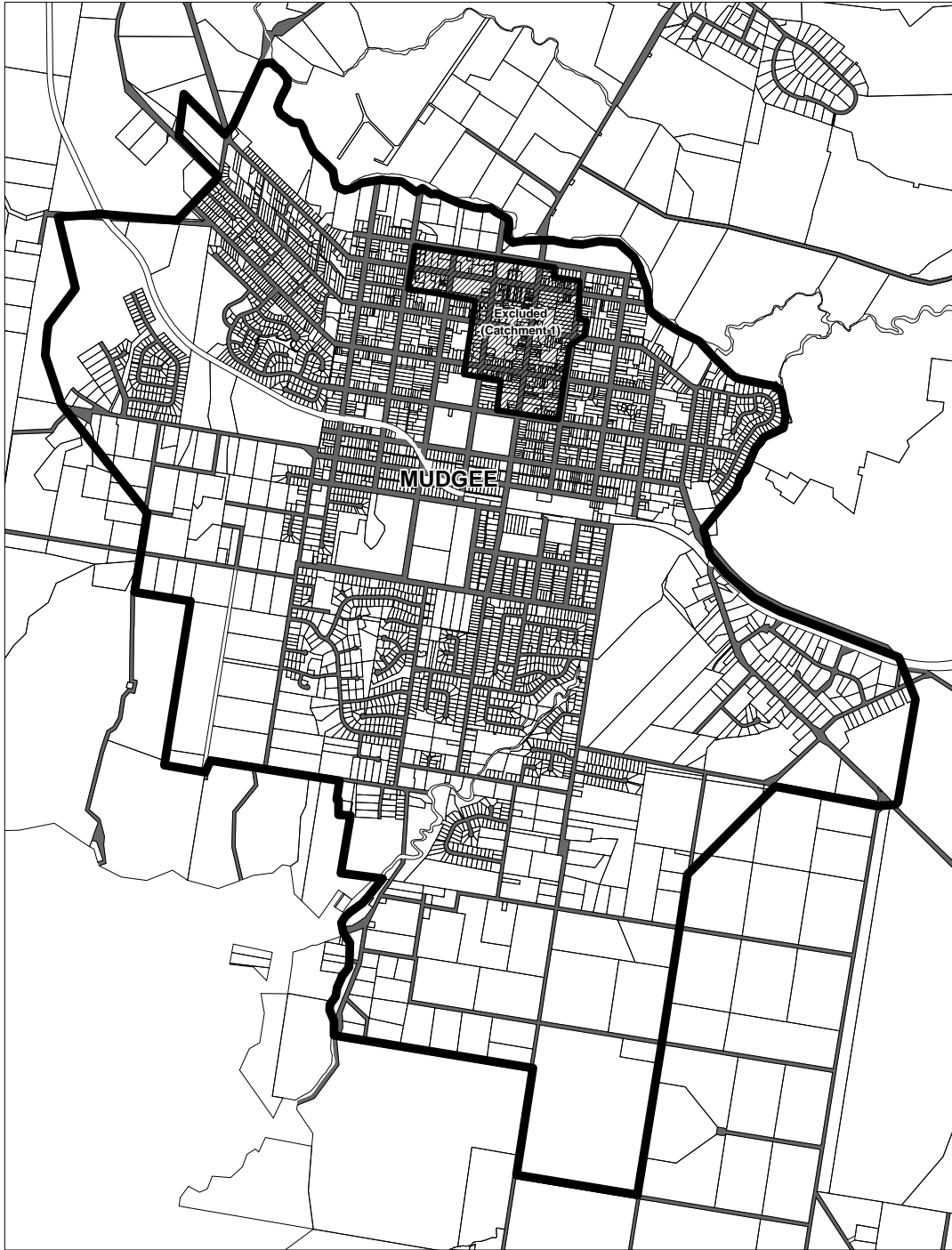
This contributions plan commences on 23 January 2006, amended 15 March 2007 and October 2009.



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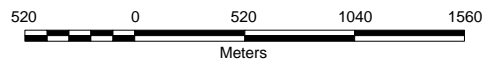
Catchment 1 - Mudgee Town Centre





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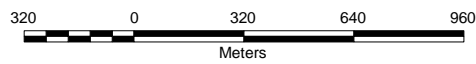
Catchment 2 - Mudgee

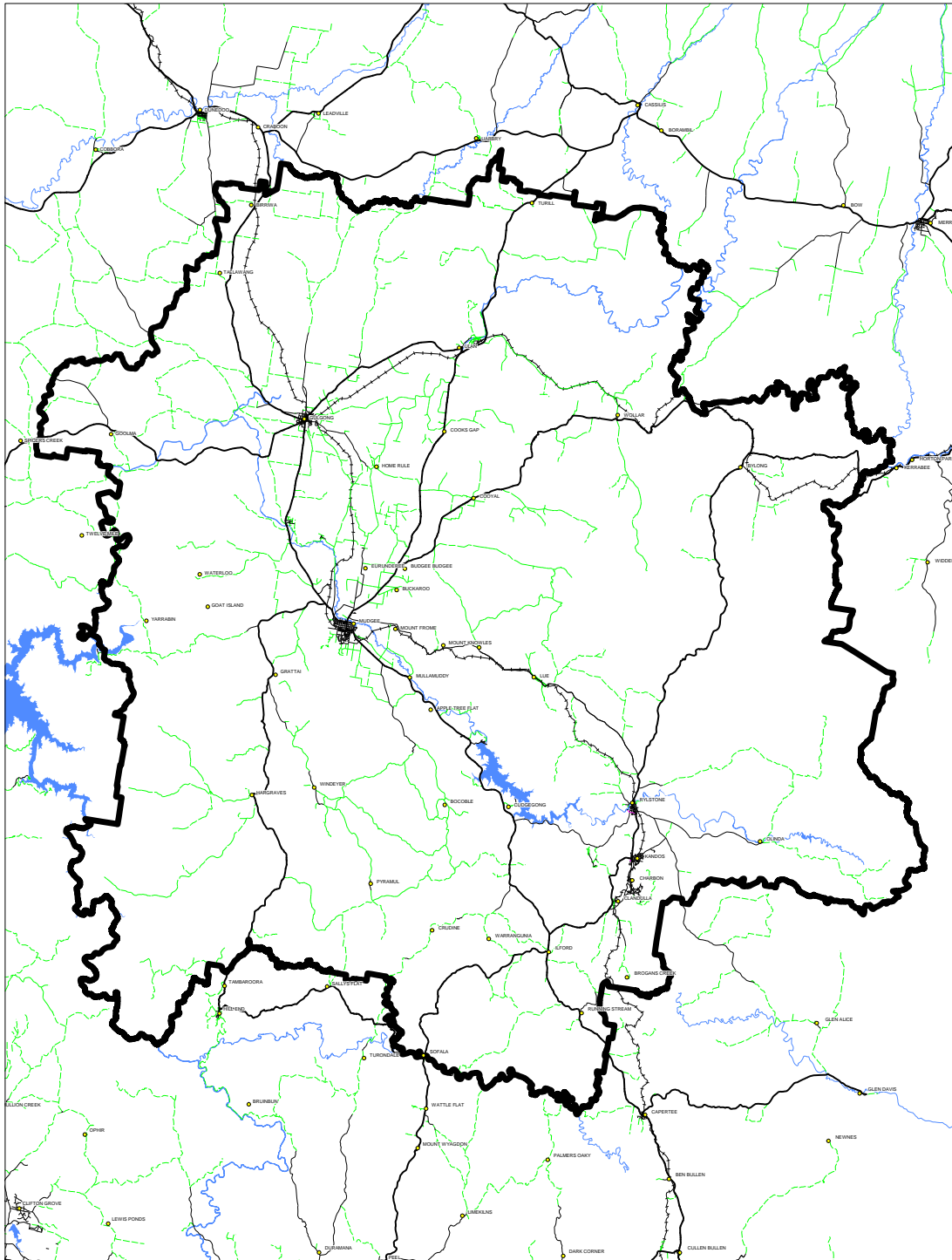




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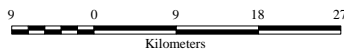
Catchment 3 - Gulgong





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Catchment 4 (Excluding Catchments 1, 2 & 3)



4.0 Purpose of the Plan

The primary purposes of this contribution plan are:

- To authorise the imposition of a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the Environmental Planning and Assessment Act, 1979 (EP&A Act).
- To assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area.
- To publicly identify the purposes for which the levies are required.

5.0 Exemptions

Council may consider exempting developments, or components of developments from the s94A levy. Exemptions will be based on the merits of the development and whether the development will have an impact of the proposed infrastructure.

6.0 Pooling of Levies

This plan expressly authorises s94A contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

7.0 Construction Certificates and the Obligation of Accredited Certifiers

In accordance with clause 146 of the EP&A Regulation 2000, 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 monetary contributions has been satisfied.

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

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

8.0 Complying Development and the Obligation of Accredited Certifiers

In accordance with s94EC(1) of the EP&A Act, accredited certifiers must impose a condition requiring monetary contributions in accordance with this development contributions plan.

9.0 Calculation of the Levy

The levy will be determined on the basis of the rate as set out in the summary schedule. The levy will be calculated as follows:

Levy payable = %c x \$c

Where:

%c is the levy rate applicable

\$c is the proposed cost of carrying out the development

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the EP&A Regulation. The procedures set out in Schedule 1 to this plan must be followed to enable the Council to determine the amount of the levy to be paid.

The value of the works must be provided by the applicant at the time of the request and must 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 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 and no construction certificate will be issued until such time that the levy has been paid.

10.0 Timing of Payment

A levy must be paid to 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 complying development certificate.

11.0 Indexation

Contributions required as a condition of consent under the provisions of this plan will be adjusted at the time of the payment of the contribution in accordance with consumer price index for All Groups as published by the Australian Bureau of Statistics.

The timing for indexation will be 1 July.

12.0 Deferred or Periodic Payments

Council may accept the deferred or periodic payment of a contribution if the applicant or any other person entitled to act upon the relevant consent satisfies the Council that:

- a) Compliance with the provisions relating to when contributions are payable is considered unreasonable or unnecessary in the circumstances of the case; and
- b) The deferment of payment or allowing periodic payments does not prejudice the timing or the manner of the provision of the public facility or service for which the contribution was required as outlined in the Capital Works Program, and
- c) The full amount of the contributions being deferred is paid within 2 years.

The decision to accept a deferred or periodic payment is at the sole discretion of Council.

All requests to Council for deferred or periodic payments should be formulated in writing based on consultation with Council and forwarded to Council prior to the determination of a development application by Council.

When Council allows a deferral of contributions, an appropriate bank guarantee shall be secured for the amount of contributions to be deferred. The conditions under which the Council may accept deferred settlement by way of lodgement of a bank guarantee are that:

- The bank guarantee be by an Australian bank the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to twenty five (25) months interest.
- Any charges associated with establishing or operating the bank security are payable by the applicant.

- The bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work.
- The bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development.
- The bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required.
- Where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.
- The bank guarantee is able to be redeemed within 24 hours notice from Council.

The conditions under which the Council may accept payment by way of periodic payment for a staged development are that:

- The instalment be paid before the work commences on the relevant stage of the development;
- The amount to be paid at each stage is to be calculated on a pro-rata basis in proportion to the demand for the relevant facility being levied by the overall development, plus CPI if required.
-

13.0 Works in Kind, Material Public Benefit and Dedication of Land

Council may accept an offer by the applicant to provide a works in-kind (WIK) contribution (i.e. the applicant completes part or all of works identified in the plan) or through the provision of another material public benefit (MPB) in lieu of the applicant satisfying part or all of its obligations under this plan.

An offer to provide WIK, MPB or land dedication is to be made to Council in writing prior to the determination of the development application and should clearly state:

- What MPB, WIK or land dedication is proposed;
- The value of the MPB, WIK or land dedication;
- The timing of the provision of the MPB, WIK or land dedication;
- What cash contributions it is proposed to offset; and
- If the work has not been identified under the plan, why it is of an equivalent or greater benefit to the community compared to what has been identified under the plan.

Council may accept such alternatives in the following circumstances:

- the value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- the standard of the works is to Council's full satisfaction; and
- the provision of the material public benefit will not prejudice the timing or the manner of the provision of public facilities included in the works program.

Subject to prior agreement of Council, land may be dedicated in lieu of making a contribution towards the acquisition of land. The land, the subject of the dedication must meet Council's requirements. Factors which Council will take into consideration when deciding whether to accept a dedication, in lieu of or as an offset against a monetary contribution, include:

- the ability of the land once dedicated to be used for the purpose for which the contribution was originally sought;

- area, location, configuration and topography of the site;
- environmental considerations, e.g. vegetation cover, soil condition, site contamination, flood liability, fire risk;
- accessibility, previous and current uses and improvements and availability of water supply and other utility services;
- ongoing costs, including maintenance, remedial or other site costs;
- the zoning of the land, and specifically whether it has been identified in any plan as being suitable for open space;
- whether the land is accessible and visible from a street frontage or other public access route;
- whether the land adjoins an existing or proposed area of open space and can readily and desirably be consolidated into that existing or proposed area at a later date;
- whether the land's location allows it to be used by the intended population (e.g. local parks should be within walking access of residences);
- the extent to which any easements (drainage/transmission lines) substantially prejudice the intended purpose/enjoyment of the open space;
- the extent to which the open space area will enjoy casual surveillance where facilities for children are to be supplied;
- the extent to which the recreation activities likely to be carried out on the land is compatible with the private enjoyment of the adjoining properties;
- Council considers the dedication appropriate in the circumstances of the case.

In some circumstances, where the land dedicated exceeds the contribution due for the provision of this type of land, this excess value may (at the sole discretion of Council) be offset against other contributions in a similar manner to works-in-kind.

The value to be attributed to the land dedicated will be the estimated value shown within the plan for that particular parcel of land if relevant, or the Council agreed value of the land determined through the normal acquisition procedures.

14.0 Savings and transitional arrangements

A development application which has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan which applied at the date of determination of the application.

PART C: SUPPORTING DOCUMENTS

Definitions

Capital Costs means all of the costs of a one-off nature designed to meet the cost of providing, extending or augmenting infrastructure.

Catchment means a geographic or other defined area to which a contributions plan applies.

Community Infrastructure means infrastructure of a communal, human or social nature, which caters for the various life-cycle needs of the public including but not limited to childcare facilities, community halls, youth centres, aged persons facilities.

Contributions Plan means a public document prepared by Council pursuant to s94EA of the Environmental Planning and Assessment Act.

Development means:

- The erection of a building on that land
- The carrying out of a work in, on, over or under that land

- The use of that land or of a building or work on that land
- The subdivision of that land.

Developer contribution means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

Material Public Benefit does not include the payment of a monetary contribution or the dedication of land free of cost.

Planning agreement means a voluntary agreed referred to in s93F of the Environmental Planning and Assessment Act.

Planning authority means:

- A council, or
- The Minister, or
- The corporation, or
- A development corporation (within the meaning of the Growth Centres (Development Corporations) Act 1974), or
- A public authority declared by the EP&A Regulations to be a planning authority for the purposes of this Division.

Planning obligation means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution.

Public includes a section of the public.

Public benefit is the benefit enjoyed by the public as a consequence of a development contribution.

Public facilities means public infrastructure, facilities, amenities and services.

Public purpose is defined in s93F(2) of the Environmental Planning and Assessment Act to include the provision of, or the recoupment of the cost of providing public amenities and public services (as defined in s93C), affordable housing, transport or other infrastructure. It also includes the funding of recurrent expenditure relating to such things, the monitoring of the planning impacts of development and the conservation or enhancement of the natural environment.

Recurrent costs mean any cost which is of a repeated nature that is required for the operation or maintenance of a public facility.

Regional infrastructure means facilities which satisfy the demands of a catchment greater than one local government area.

Telecommunication Towers are defined as commercial development for the purposes of this plan.

Thresholds means the level at which the capacity of an infrastructure item is reached or the event which triggers the requirement for provision of a facility.

Works-in-Kind means the construction or provision of the whole or part of a public facility that it identified in a works schedule in a contributions plan.

Appendix 1 Procedure

A cost summary report is required to be submitted to allow Council to determine the contribution that will be required. The following should be provided:

- A cost summary report must be completed for works with a value no greater than \$1,000,000.
- A Quantity Surveyor's Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value greater than \$1,000,000.

To avoid doubt, section 25J of the *Environmental Planning and Assessment Act 1979* sets out the things that are included in the estimation of the construction costs 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:

- 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,
- 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 changes,
- 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.

**APPENDIX 2
COST SUMMARY REPORT
Development Cost no greater than \$1,000,000**

Reference:	
Date:	
Development Application No:	
Construction Certificate No:	
Applicant's Name:	
Applicant's Address:	
Development Name:	
Development Address:	

Analysis of Development Costs:

Demolition and alterations	\$
Structure	\$
External walls, windows and doors	\$
Internal walls, screens and doors	\$
Wall finishes	\$
Ceiling finishes	\$
Fittings and equipment	\$
Hydraulic services	\$
Mechanical services	\$
Fire services	\$
Lift services	\$
External Works	\$
External services	\$
Other related work	\$
Sub-Total	\$
Preliminaries and margin	\$
Sub-Total	\$
Consultants Fees	\$
Other related development costs	\$
Sub-Total	\$
GST	\$
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 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:

APPENDIX 3**REGISTERED* QUANTITY SURVEYOR'S DETAIL COST REPORT****Development Cost in excess of \$1,000,000**

*A member of the Australian Institute of Quantity Surveyors

Reference:	
Date:	
Development Application No:	
Construction Certificate No:	
Applicant's Name:	
Applicant's Address:	
Development Name:	
Development Address:	

Development Details:

Gross Floor Area - Commercial	m2
Gross Floor Area - Retail	m2
Gross Floor Area - Industrial	m2
Gross Floor Area - Car Parking	m2
Gross Floor Area - Other	m2
Total Gross Floor Area	m2
Total Site Area	m2
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	\$/m2
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$/m2
Cost per square metre of site area	\$/m2	Cost per space	\$/space
Construction - Commercial	\$	Fit-out - Commercial	\$
Cost per square metre of site area	\$/m2	Cost per m2 of commercial area	\$/m2
Construction - Retail	\$	Fit-out - Retail	\$
Cost per square metre of site area	\$/m2	Cost per m2 of commercial area	\$/m2
Construction - Industrial	\$	Fit-out - Industrial	\$
Cost per square metre of site area	\$	Cost per m2 of commercial area	\$

area	/m2	area	/m2
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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 Contribution Plan of the Mid-Western Regional Council 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: