CABONNE COUNCIL

Road Contributions Plan (Section 94) for General Rural Zones

I, G.L.P Fleming, General Manager of Cabonne Council, certify that this is and was made under Section 94 of the *Environmental Planning and Assessment Act 1979* and approved by Council at the meeting of 21 April 2007.

.....
G.L.P Fleming
GENERAL MANAGER

Adopted by Council: 16 April 2007

Effective Date: 21 April 2007

CONTENTS

1. SUMMARY 4

2. ADMINISTRATION AND OPERATION OF THE PLAN 5

2.1 What is the name of this development contributions plan? 5

2.2 Area this plan applies 5

2.3 What is the purpose of this development contributions plan? 5

2.4 Commencement of the plan 5

2.5 Relationship with other plans and policies 6

2.6 Definitions 6

2.7 When is the contribution payable 6

2.8 Construction certificates and the obligation of accredited certifiers 6

2.9 Complying development and the obligation of accredited certifiers 7

2.10 Deferred/periodic payments 7

2.11 Discounts 8

2.12 Savings and Transitional Arrangements 8

3. NEXUS AND BASIS FOR CONTRIBUTIONS 9

3.1 Nexus 9

3.2 Basis for Calculating Contributions 10
3.2.1 Costs of Vehicle Movement 10
3.2.2 Determination of the Traffic Impacts 10
3.2.3 Indexation 10
3.2.4 Existing Entitlements 11
3.2.5 Sealed Roads 11
3.2.6 Existing Roads of Poor Standard and New Roads 11

3.3 Timing of Payment 11
3.3.1 New subdivisions for residential purposes 11
3.3.2 New dwellings on land for which no contribution has been paid 12

4.0 PUBLICLY AVAILABLE INFORMATION 13

4.1 Register of contributions 13

4.2 Annual Statement 13

4.3 Priorities for Expenditure 13

5. UPDATING THIS PLAN 13

1. SUMMARY

Following is a summary of "road contributions" that are applicable under this development contributions plan:

DISTANCE OF ACCESS POINT OF THE PROPOSED LOT FROM THE END OF THE NEAREST CURRENT ROAD SEAL	CONTRIBUTION FOR EACH LOT WHERE A DWELLING IS PERMISSIBLE	CONTRIBUTION FOR EACH AGRICULTURAL LOT WHERE NO DWELLING IS PERMITTED
Less than 200 metres	$1,933	$644
201 - 1,000 metres	$9,666	$644 - $3,220
1,001 - 2,000 metres	$9,666 - $19,332	$3,220 - $6,440
2,001 - 3,000 metres	$19,332 - $28,998	$6,440 - $9,660
3,001 - 4,000 metres	$28,998 - $38,664	$9,660 - $12,880
4,001 - 5,000 metres	$38,664 - $48,330	$12,880 - $16,100
5,001 - 6,000 metres	$48,330 - $57,996	$16,100 - $19,320
6,001 - 7,000 metres	$57,996 - $67,662	$19,320 - $22,540
7,001 - 8,000 metres	$67,662 - $77,328	$22,540 - $25,760
8,001 - 9,000 metres	$77,328 - $86,994	$25,760 - $28,980
9,001 - 10,000 metres	$86,994 – 96,660	$28,980 - $32,220
Over 10,000 metres	$96,660 + $9,666 per km over 10 km	$32,200 + $3,220 per km over 10km

Notes:

a. Refer to Section 2.6 – "Definitions" in relation to *dwelling* and *agricultural* lots.
b. These contributions are applicable to the 2006/2007 financial year.
c. Example: An approved "Dwelling Lot", whose point of access is 6,500 metres from the nearest bitumen sealed road, would be required to pay a contribution of $62,829.
d. Refer to page 8, 2.11 for applicable discounted figures.

2. ADMINISTRATION AND OPERATION OF THE PLAN

2.1 WHAT IS THE NAME OF THIS DEVELOPMENT CONTRIBUTIONS PLAN?

This development contributions Plan is called the *"Road Contributions Plan (Section 94) for the General Rural Zones, 2006".*

2.2 AREA THIS PLAN APPLIES

This Plan applies to all lands within the Cabonne LGA zoned:

- Zone No 1 (a) (General Rural);
- Zone No 1 (f) (Forestry); and
- Zone No 7 (c) (Environmental Protection—Water Catchments).

under the provisions of the *Cabonne Local Environmental Plan 1991* or subsequent amendments to that Plan.

2.3 WHAT IS THE PURPOSE OF THIS DEVELOPMENT CONTRIBUTIONS PLAN?

The purpose of the Development Contributions Plan is to:

(a) Provide an administrative framework under which specific public facilities strategies may be implemented and coordinated;

(b) Ensure that adequate public facilities are provided for as part of any new development;

(c) To authorise the council to impose conditions under section 94 (s94) of the *Environmental Planning and Assessment Act 1979* when granting consent to development on land to which this plan applies;

(d) Provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis;

(e) Ensure that the existing community is not burdened by the provision of public amenities and public services required as a result of future development; and

(f) Enable the council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

2.4 COMMENCEMENT OF THE PLAN

This development contributions plan has been prepared pursuant to the provisions of s94 of *the EP&A Act* and Part 4 of the *EP&A Regulation* and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the *EP&A Regulation.*

This Plan comes takes effect from: 21 April 2007

2.5 RELATIONSHIP WITH OTHER PLANS AND POLICIES

This development contributions plan repeals the *"Roading Contributions Plan for the General Rural Zones, January 1993".*

This development contributions plan supplements the provisions of the *Cabonne Local Environmental Plan 1991* (and any amendment or local environmental plan which it may supersede).

2.6 DEFINITIONS

AADT	Annual average daily traffic movements
Agricultural Lot	A lot created for bona fide agricultural purposes without a building entitlement
Dwelling Lot	A lot created under the provisions of *Cabonne Local Environmental Plan 1991* a dwelling is permissible with the consent of Council and where development standards for a dwelling are met
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000*
LEP	Cabonne Local Environmental Plan 1991
LGA	Local Government Area

2.7 WHEN IS THE CONTRIBUTION PAYABLE

A contribution must be paid to the council at the time specified in the condition that imposes the contribution. If no such time is specified, the contribution must be paid prior to the issue of a construction/subdivision certificate or complying development certificate.

2.8 CONSTRUCTION CERTIFICATES AND THE OBLIGATION OF ACCREDITED CERTIFIERS

In accordance with section 94EC of the *EP&A Act* and Clause 146 of the *EP&A Regulation*, 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 contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in accordance with clause 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.

2.9 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 which satisfies the following criteria:

- **Dwellings on lots that were not created under Cabonne Local Environmental Plan 1991.**

The conditions imposed must be consistent with council's standard section 94 consent conditions and be strictly in accordance with this development contributions plan. It is the professional responsibility of accredited certifiers to accurately calculate the contribution and to apply the section 94 condition correctly.

2.10 DEFERRED/PERIODIC PAYMENTS

Deferred or periodic payments may be permitted in the following circumstances:

- Where the applicant intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution and council and the applicant have a legally binding agreement for the provision of the works or land dedication,
- There are circumstances justifying the deferred or periodic payment of the contribution.

If council does decide to accept deferred or periodic payment, council will require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on condition that:

- The bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security
- 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.

2.11 DISCOUNTS

In some instances discounts are available against the actual calculated contribution.

There are no discounts available for the first kilometer from the appropriate sealed road.

After one(1) kilometer the applicable contribution is to be discounted on the basis of the attached map (see Appendix 3). The map identifies three geographic areas within the Cabonne Local Government Area as Area A, Area B and Area C.

The applicable discounts are:

Area A 75%
Area B 50%
Area C 25%

These discounts have been provided so as to recognize Council's desire to allow rural subdivision to occur however also recognizing the cost to the community of rural subdivision on unsealed roads.

2.12 SAVINGS AND TRANSITIONAL ARRANGEMENTS

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

3. NEXUS AND BASIS FOR CONTRIBUTIONS

3.1 NEXUS

....."Fundamental to the levying of s94 is the establishment of a nexus between the proposed development and the need for increased amenities and services. If Council fails to demonstrate an increased demand for amenities and services, it cannot charge Section 94 Contributions.

Three aspects of nexus can be identifiers – casual, physical and temporal. That is, the need for the service or facility being levied for it must be a direct result of the development being levied; the service or facility must be near enough in physical terms to provide benefit to the development; and, finally, that service or facility must be provided within a reasonable time.

These aspects can be accommodated within the following components, which are necessary for the establishment of nexus between a development and the need for additional amenities:

(a) determination of the additional population (or dwellings, floor space, etc) generated by the development (the causal relationship); and

(b) determining from the above, the increased demand for amenities and services and where and when they will be needed (the physical and temporal relationship).

Where a clear relationship between development and demand for amenities and services can be demonstrated, Council has satisfied the nexus precondition for the levying of a Section 94 contribution....." (Department of Planning 1992 Section 94 Contributions Plans Manual P7.)

The basis of Council's position with respect to nexus for Road Contributions is that additional subdivision development generates additional traffic on the service roads to such developments, which in turn increases and brings forward the need for capital improvements to such road. There is, therefore, a clear nexus between new development fronting an existing Shire road and increasing traffic volume on that road. In turn, this increase in traffic volume has a cost resulting from the need to improve the road. The developer should therefore pay for that part of the increase in road standard needed to address the impacts of his/her development.

Council will hold contributions levied in the name of the access road system servicing the development. Contributions will only be expended in accordance with the works schedule and will only be spent on improvements to the gravel access road relating to the development.

3.2 Basis for Calculating Contributions

3.2.1 Costs of Vehicle Movement

Development of various types can be converted to light vehicle movement equivalents per day on the service road (Annual Average Daily Traffic movements = AADT). Further, that each additional AADT increases the need for improved road standards to a small degree.

Appendix One is a summary of the standards of rural roads that Council has identified in the Cabonne Shire.

Council has calculated the average cost to upgrade each road standard to the next (higher) standard. When these costs are plotted on a graph against the AADT specified for each standard, the result is nearly linear. The cost is estimated at $1611 per kilometre per AADT movement.

Council will therefore assume that the costs to take the lowest standard of gravel road to a sealed standard (class 1 level 2) rise at an equal rate for each AADT.

Council's stance is that ideally, it would be desirable for roads to be sealed to a class 1 level 2 standard once AADT reaches 100. Therefore for the purposes of this Plan, an AADT of 100 will be adopted as the desirable theoretical level for sealing.

3.2.2 Determination of the Traffic Impacts

Monitoring of the shire roads by Council has indicated that a very conservative AADT for a rural lot with a permissible dwelling is six (6) light vehicle equivalents. The heavy traffic movements associated with most professional agricultural operations would generate usually far in excess of six (6) light vehicle AADT.

However, Council has decided to adopt the lower figure of six (6) AADT per additional residence or agricultural property.

It is also considered reasonable to assume that for each rural property fronting a gravel road, there is a dominant access route to the nearest sealed road.

3.2.3 Indexation

Council will index the contributions table (as presented in Schedule One) annually to take into account of the movements in the Consumer Price Index. The Contributions table will be adjusted annually as of 31 July based on the consumer price index for the year preceding.

3.2.4 Existing Entitlements

(i) Where vacant land is subdivided and this land prior to subdivision had an entitlement for a dwelling, one (1) lot is entitled to retain the six (6) AADT status for the purpose of calculation of the roading contribution.

(ii) Where land is subdivided with an existing dwelling on one lot such lot is entitled to a discount of six (6) AADT.

3.2.5 Sealed Roads

Developments that directly access sealed roads of standard class 1 level 2 or better are exempt from the provisions of this plan. However, those sections of roads first sealed after the coming into effect of this Plan will remain liable to be levied as if the road was not sealed as of the time of lodgement of the Development Application.

3.2.6 Existing Roads of Poor Standard and New Roads

Where the Director of Engineering Services determines that an existing road is of standard less than Council's minimum standard, then this part of the road will be determined to be a "new road".

As such, in addition to the Road Improvement Contribution in accordance with this Plan for the section of the road below class 3 level 2 standard providing access to the development to the nearest sealed road, the developer, pursuant to section 79(c) will be required to meet the costs of development of this new road to a standard dictated by the traffic volume of the new development.

Where more than one land owner will benefit from the development of this new road, then a proportionate costing will apply, based on the frontage of the site subject to the development.

3.3 Timing of Payment

3.3.1 New subdivisions for residential purposes

Contributions are payable for new subdivisions and will be calculated at the time of Development Application and included as a Condition of Approval. The contribution will be payable prior to release of the linen plan of subdivision. A contribution will be payable for every vacant lot created that has a right of consideration for a dwelling, whether or not it is currently proposed to construct a dwelling or sell the site. Should finalisation of the proposed subdivision be deferred for in excess of 12 months from the date of consent the contributions payable will be adjusted using the consumer price index increase between date of consent and the date of payment.

3.3.2 New dwellings on land for which no contribution has been paid

Where a dwelling is proposed for a land parcel capable of being defined as a separate title and for which no road contribution has previously been charged, the Road Improvement Contribution will be payable prior to issue of a Construction Certificate for the dwelling.

Example:

a) A property consisting of old Crown titles or old portions; and
b) A lot within a subdivision approved before this Plan for which no road construction was levied etc.

No contribution is payable where a dwelling replaces an existing dwelling in occupation up until the application for the new dwelling or where that initial dwelling was accidentally destroyed (e.g. by fire).

4.0 PUBLICLY AVAILABLE INFORMATION

4.1 REGISTER OF CONTRIBUTIONS

As required under the Act, Council will maintain a register, which depicts all, affected Shire Roads, contributions that have been levied and details of the development subject to the levy.

This register will be available for inspection by the Public at Council's Planning Department during normal office hours.

Voluntary Contribution Agreements will also be public documents available to public scrutiny.

4.2 ANNUAL STATEMENT

Council is required to produce an Annual Accounting Statement for funds held and expended under Section 94 Contribution Plans. Such statements are produced soon after the end of each financial year and will be available for inspection at Council's Planning Department in normal office hours.

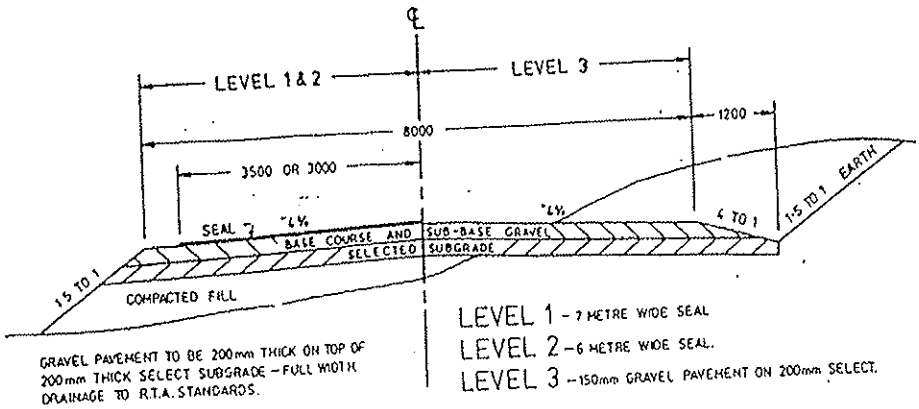
4.3 PRIORITIES FOR EXPENDITURE

Priorities for expenditure are detailed in **Appendix Two** of this Plan.

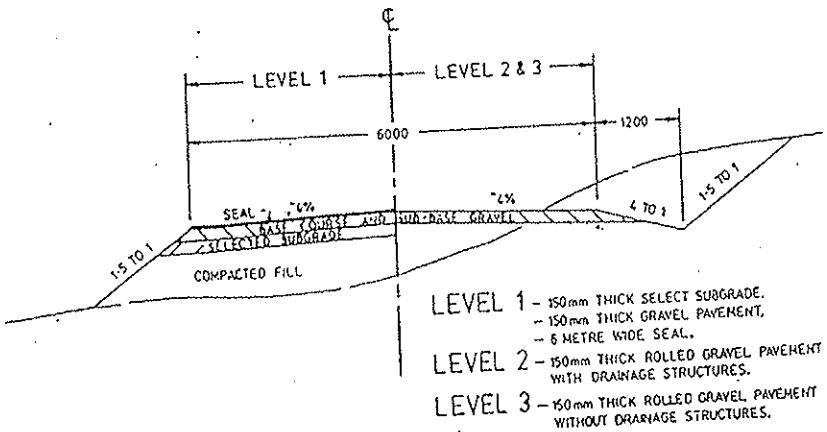
5. UPDATING THIS PLAN

Changes to this Plan must be effected through the making of a fresh Contributions Plan as required by Clause 26 of the regulation. As such, any change would be taken through the full public participation process.

APPENDIX 1



R. CLASS 1



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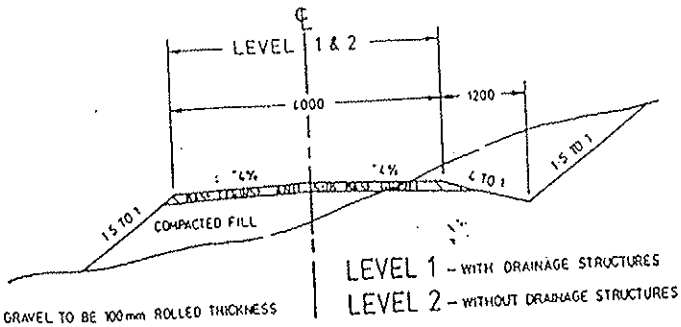

R. CLASS 3

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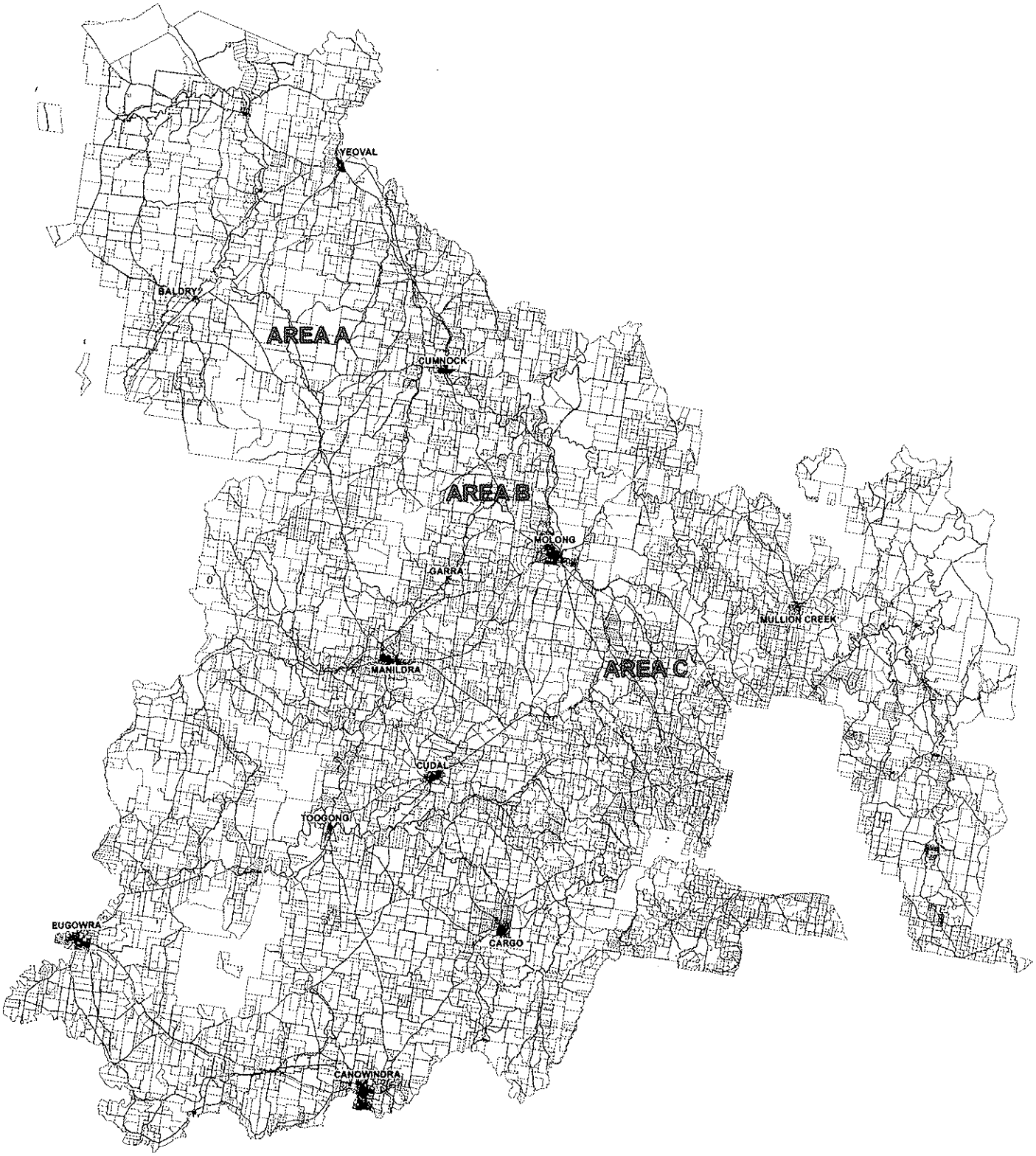
ROAD STANDARDS

RURAL ZONE



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s94 ROADING CONTRIBUTIONS PLAN 2006