

PARKES SHIRE COUNCIL

SECTION 94 CONTRIBUTIONS

PLAN NO 1

30TH OCTOBER 1992

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1. INTRODUCTION

1.1 Basic Principles of Section 94

Section 94 (S.94) of the Environmental Planning and Assessment Act 1979 (EPA Act) permits Councils to require persons developing land to pay monetary contributions and/or dedicate land in order to help fund the increased demand for public amenities and public services (amenities and services) generated by the carrying out of their developments. The Court has determined that S.94 is the sole method that Councils can use to require a contribution from a developer. The 3 general principles in applying S.94 contributions are:

- * a contribution must be for, or relate to, a planning purpose;
- * a contribution must fairly and reasonably relate to the subject development; and
- * the contribution must be such that a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed the contribution.

Council may either:

- * require a contribution (or dedication of land) to fund works or facilities to be carried out in the future; or
- * require a contribution to fund works or facilities which have already been constructed.

Section 94 contributions are not levied for the provision of those services and amenities which a developer must provide on the land being developed to comply with the provisions of the EPA Act and Council's development standards.

One of the fundamental responsibilities of any Council in imposing S.94 contributions is to ensure that the contributions levied are reasonable. That is, the works and facilities to be provided must be as a direct consequence of the development on which the contributions are levied and must not unnecessarily inflate costs associated with development. In keeping with this responsibility, S.94 contributions levied on development as a result of this plan are limited to those needed to provide essential or base-line works and facilities considered necessary to sustain an acceptable standard of urban development.

2. AIMS AND OBJECTIVES

The aims and objectives of this contribution plan are to:

- * Ensure that Section 94 contributions levied on development are reasonable.
- * Ensure that an appropriate level of provision of services and amenities occurs in areas where development occurs.
- * Employ a user pays policy regarding the funding of services and amenities so that the existing residents of the Shire do not have to subsidise new urban development.
- * Ensure that the services and amenities provided are not for the purpose of making up shortfalls in other areas.

3. PURPOSE OF THE PLAN

The purpose of this Contribution Plan is to enable Council to levy contributions from persons developing land, by way of monetary contributions and for the dedication of land in lieu of monetary contributions, for the purpose of providing public amenities and services to meet the increased demand for public amenities and services resulting from the development.

This plan will outline the monetary contributions and for the dedication of land required from persons developing land for the following amenities and services.

- i) Public open space and recreation areas.
- ii) Off-street car parking.
- iii) The augmentation of the reticulated water supply to land zoned as 1(c) Rural Small Holdings Zone and identified on Appendix 1 attached to this Plan.

4. LAND TO WHICH THE PLAN APPLIES

This Contribution Plan shall apply to the following land:

- i) For Section 94 contributions levied for the provision of public open space and recreation areas and the improvement of existing public open space and recreation areas this Contribution Plan shall apply to all land zoned 2(v) Urban and Village Zone on Plan No 1 of the Parkes Local Environment Plan 1990 and the subject of the Development Control Plan for the Parkes Urban Area.
- ii) For Section 94 Contributions levied for the provision of off-street car parking, this Contribution Plan shall apply to all land zoned 2(v) Urban and Village Zone by the Parkes Local Environment Plan 1990 and the subject of the Development Control Plan for the Parkes Urban Area.
- iii) For Section 94 Contributions levied for the augmentation of the reticulated water supply to land zoned 1(c) Rural Small Holdings Zone this Contribution Plan will apply to that land shown zoned 1(c) Rural Small Holdings Zone on Attachment 1 to this Plan.

5. RELATIONSHIP TO OTHER PLANS

Other planning controls apply to land to which this Plan relates. Of particular importance and relevance are the following:

- * Parkes Local Environment Plan 1990
- * Development Control Plan Parkes Urban Area 1991
- * Development Control Plan 1(c) Rural Small Holdings Zone 1991
- * Parkes Shire Council Subdivision Code
- * Parkes Shire Council Off-Street Parking Code
- * Parkes Shire Council Residential Flat Development Standard

These documents are available for public inspection at Council's Administration Centre during normal office hours.

In addition to these controls land to which this Plan applies may also be affected by other Section 94 Contribution Plans which Council may adopt.

6. PLANNING PURPOSE, NEXUS AND LEVEL OF PROVISION

6.1

This section identifies the level of provisions of services and amenities proposed by this Plan and outlines the following:

- * The planning purpose for which contributions are sought.
- * The nexus or relationship between services and amenities and the development proposed.
- * The level of provision of services and amenities arising as a result of a proposed development.

6.2 Planning Purpose

The purposes for which Section 94 Contributions are sought under this plan are:

- i) The provision of public open space and recreation areas.
- ii) The provision of off-street car parking.
- iii) The augmentation of the reticulated water supply in part of the Shire's 1(c) Rural Small Holdings Zone.

These are considered to be basic amenities and services necessary for the residents of the areas affected by development.

Works proposed to be included in purposes i) and ii) as identified in this Plan may not actually be provided during the duration of this Plan. The provision of these works will depend on the demand generated by future development for a particular amenity or service.

Works included in purpose iii) have already been carried out to augment the water supply reticulation servicing the subject area in advance of development occurring in that area. Contributions levied under this Plan for this purpose are by way of retrospective funding to meet the cost of loan repayments for the work.

6.3 Nexus Between Development and the Provision of Public Services and Amenities

This section outlines the nexus or relationship between proposed development and the need for additional services and amenities.

The general nexus between proposed development and the need for additional services is based on the fact that new development in an area will generate a need for additional public services and amenities to be provided to be used by that development. Different types and levels of developments will generate different needs for the provision of services and amenities. Section 94 of the Environmental Planning and Assessment Act 1979 grants Councils the power to levy contributions from developers for public services and amenities required as a consequence of development.

Open Space and Recreation Facilities

Council considers it a basic requirement for all residential areas in the Shire to have ready access to public open space recreation facilities and that each household should be within 500 metres of open space of at least 0.5 ha in area and be within 1.5km of a large area of open space suitable for either active or passive recreation.

New residential subdivision developments are required to assist with the provision of these facilities either by way of the contribution of land for public recreation in accordance with the provisions of Council's Subdivision Code or by way of a monetary contribution to Council for the provision of these facilities.

Off-Street Car Parking

Council requires persons who erect buildings, or change the use of land or buildings within the Shire, to provide off-street car parking facilities on their properties for use by tenants and visitors to that building or land in accordance with the Parkes Shire Council Off-Street Car Parking Code which is used in conjunction with the Guidelines for Traffic Facilities issued by the Traffic Authority of New South Wales.

If the developer is unable to provide the required off-street car parking on the site of the development, Council may accept this provision on other land owned by the applicant provided that the alternative development will satisfy the requirement. Council in this case will require a formal agreement by the owner to the effect that the land intended for parking will not be sold without Council consent.

If a development on land reserved as Commercial on the Development Control Plan for the Parkes Urban Area or land in close proximity to this area and unreserved is unable to provide off-street car parking facilities in accordance with the Off-Street Car Parking Code Council may accept a monetary contribution to provide public off-street car parking facilities in lieu of physical provision of these facilities on the development site.

Augmentation of Water Supply Reticulation

Council in 1983 was required to meet the cost of augmenting the water supply reticulation in the area shown on Appendix 1 to enable that area to be developed for subdivision into low density residential all small rural holding allotments. Council considered that this type of development requires an adequate reticulated water supply as a basic amenity for its residents. Council recoups the cost of providing this amenity in advance to enable future development to take place by levying a Section 94 Contribution on each additional allotment created by subdivision in the subject area.

This levy is not a contribution to the cost of any additional mains and services required to provide a water supply to a subdivision. These are separate development costs which must be met by the developer.

7. CONTRIBUTION FORMULAE

This section details the contribution formulae used to determine Section 94 Contribution rates levied for the public amenities and services to which this Plan refers.

7.1 Open Space and Recreation Facilities

This formulae is based on the Natural Capital Planning Authority standard of 4.0 hectares of open space for each 10,000/population which is considered to be a suitable standard for Parkes Shire.

Contribution Rate = $A \times C \times I$

where A = land requirement for each additional person generated by the development = 4 sq metres

C = Average current cost of unreserved land = \$30/sq metre

I = Potential increase in population generated by the development = 3.2 persons per additional allotment in the case of residential subdivisions

In developed areas the level of the contribution will still be assessed by the use of the above formulae to ensure that the current amenity of the area is not reduced by new development.

In all areas contribution may be used for the development of new open space and recreation facilities or for the improvement of existing facilities.

7.2 Off-Street Car Parking Formulae

This formulae is based on the requirements of Council's Off-Street Car Parking Code and the Guidelines for Traffic Facilities issued by the Roads and Traffic Authority of New South Wales.

Contribution Rate = $A(V+C)$

where A = Area of land required per car space = $30m^2$

V = Value of land required = \$60/ m^2

C = Cost of works required = 28/ m^2

7.3 Water Reticulation Augmentation

This formulae is based on the full cost of the loan repayments included interest incurred by Council in the augmentation of the water supply of the subject reduced by number of existing dwellings at the time of the work.

Contribution per additional allotment = $\frac{(C-PC)}{N} \times T$

where C = Total cost of loan repayments for the augmentation = \$98,624

P = Percentage of existing dwellings to be served to the total potential of the area = 30%

T = Total contribution received to 31st July, 1992 = \$40,180

N = Number of potential additional allotments in the subject area as at 31st July, 1992 = 29

7.4 Indexation

Contribution rates obtained by the Contribution Formula will be indexed and adjusted annually by the use of the "Implicit Price Deflator for Gross Fixed Capital Expenditure – Private Dwellings (IPD)" produced by the Australian Bureau of Statistics and published in the "Australian Accounts National Income and Expenditure".

8. CONTRIBUTION RATES

The following are contribution rates for Section 94 Contribution to be levied by use of the contribution formulae outlined in Section 7 contributions Formula.

SCHEDULE

Open Space and Recreation Facilities

<u>Type of Development</u>	<u>Contribution Rate</u>
Residential Subdivision	\$384. for additional allotment created
Major Developments	\$120 per each new resident
Off-Street Car Parking	\$520
Monetary contribution in lieu of the provision of off-street car parking by the developer	\$2,640 per car space not provided

Water Reticulation Augmentation

Contribution per each additional allotment created	\$995
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9. METHODS AND TIMING OF PAYMENT

9.1 Methods of Payment

There are 3 possible methods of payment for Section 94 contributions, each of which is outlined below.

Monetary Contributions

This is the usual method of payment. When a development consent is issued that involves the payment of a Section 94 contribution, it contains a condition outlining the amount payable in monetary terms subject to indexation by the IPD. However this can be offset by either of the following 2 methods of payment.

Dedication of Land

Where appropriate Council may permit the dedication of land for open space, recreation facilities or off-street parking to offset the monetary contribution payable. The land that is to be provided be in accordance with the zonings indicated on Council's planning instruments for the area. The assessment of the suitability of land for dedication occurs at the Development or Subdivision Application stage.

If consent is issued for a development, then the applicant needs to contact Council in order to receive a valuation of the land proposed to be dedicated. Upon agreement being reached as to the land's value, and exchange of contracts subsequently occurring, Council will offset the value of the land against the monetary contribution payable.

Works-in-kind Agreements

Council may accept the construction of amenities or services to offset the monetary contribution payable. The works provided must be in accordance with the schedules of works contained in this Plan. The applicant will need to initiate this option by giving Council full details of the work proposed to be undertaken. Council will then consider the request and advise the applicant accordingly.

If the works-in-kind are not completed prior to the release of the linen plan, then the applicant will need to provide Council with suitable financial guarantees (normally by way of a Bank Guarantee) for the amount of the works not completed. Upon completion of the works the financial guarantee will be discharged by Council.

9.2 Timing of Payment

Council's policy regarding the timing of payment of Section 94 contributions is as follows:

- * Development Applications involving subdivisions
 - At the release of the linen plan (ie just prior to the formal creation of newly subdivided lots).

- * Development Applications involving building work
– At the time of building approval.
- * Development Applications where no building approval is required – Prior to occupation.

9.3 Deferred Payment of Contributions

Council's policy for the deferred payment of Section 94 contributions is as follows:

- * The period of time for deferring payment is flexible but will generally be limited to 12 months.
- * If Council grants such a request it is conditional upon the applicant providing a suitable Bank Guarantee and Deed of Agreement.
- * Interest is charged on deferred contributions. The current rate (1992) is 15%.
- * The amount of the Bank Guarantee shall be the sum of the amount of contributions outstanding at the time of deferment plus the "lost interest" over the time of the deferment. This amount will also represent the amount payable at the end of the deferred payment period.
- * The Deed of Agreement is to be prepared by Council's Solicitors at full cost to the applicant. In this regard the applicant is to pay Council's Solicitor's costs direct to the Solicitor and not through Council.
- * Council also charges an administrative fee for deferred payment. The current amount (1992) is \$100.
- * Should contributions not be paid by the due date, the Bank Guarantee will be called up by Council.
- * For consideration of a deferral request to occur, the applicant requiring deferment needs to apply in writing to Council. All requests are considered on their merits.

10. FINANCIAL INFORMATION

Council will maintain a Contributions Register for this Plan. It will contain details concerning contributions received and expended, including interest earned, for each service or amenity provided.

This Register will be is available for inspection free of charge from Council's Administration Department.

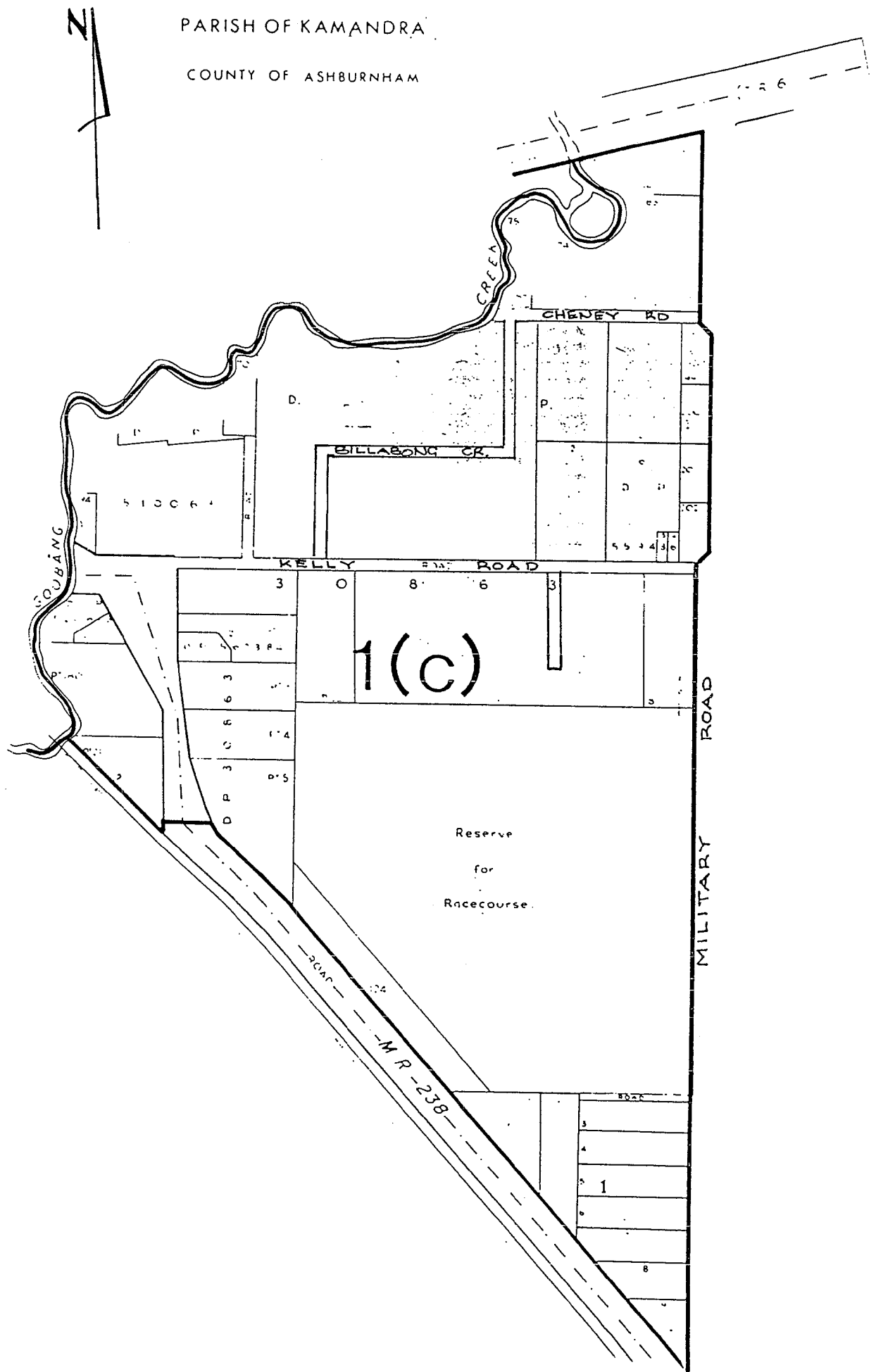
11. MONITORING OF PLAN

This Plan will be subject to regular review by Council. The purpose of any review is to ensure that:

- * levels of public service and amenity provision are consistent with likely population trends and community needs;
- * contribution levels reflect changes to land values and construction costs;
- * changes to catchment areas can be incorporated; and
- * work schedules can be amended if development levels differ from current expectations.

Any changes to the Plan, apart from the indexing of contributions, will be placed on public exhibition. Such exhibition period is 28 days and Council welcomes the opportunity for interested parties to make written submissions. The nature of the changes proposed and the reasons for such will be clearly outlined as part of the public participation process.

APPENDIX A



APPENDIX B

OPEN SPACES SCHEDULES

The Parkes urban area has been subdivided into 11 areas or neighbourhoods shown on the attached plan.

It is proposed that the following parks and recreation facilities in each area will be improved by the expenditure of Section 94 contributions levied from the subject area.

Area 1	Kelly Reserve
Area 2	Bushmans Hill
Area 3	Panorama Crescent and Danilenko Street
Area 4	Thornbury Street Park
Area 5	Lions Memorial Park
Area 6	PAC Park, Vaucluse Heights Park
Area 7	Memorial Hill
Area 8	Cheney Park
Area 9	Middleton Street Park
Area 10	AE Fox
Area 11	Flinders Street (Woodward's Subdivision)

The following works programme for the improvement of the existing Parks and Reserves has been prepared on an estimated total Section 94 Contribution for Open Space of \$15,000 being received by Council over the five years 1993/1997.

An increase in the level of Contributions received during that period will result in an acceleration of the proposed works. However, the completion of the works programme within the proposed timetable will depend on the demand and contributions generated by future development.

Works Schedule

Park Name	Area	1993	1994	1995	1996	1997
Kelly Reserve	1		\$600			
Bushmans Hill	2		\$200			
Panorama Crescent	3	\$2,000				
Danilenko Street	3			\$1,500		\$1,000
Thornbury Street	4				\$200	
Lions Memorial	5					\$1,000
PAC Park	6	\$1,000				
Mick Miller Est	6			\$1,500	\$1,600	
Memorial Hill	7		\$400			
Cheney Park	8		\$1,800			
Middleton Street	9					\$200
AE Fox	10				\$600	
Flinders Street	11				\$600	\$800
TOTAL		\$3,000	\$3,000	\$3,000	\$3,000	\$3,000

Works Proposed

Area 1	Kelly Reserve – Tree planting
Area 2	Bushmans Hill – Drip irrigation to History Through Trees and tree planting
Area 3	Panorama Crescent – Establishment of Park (topsoil seeding), swings and 1 spring animal
Area 4	Danilenko Street Park – Establishment, tree planting
Area 5	Thornbury Street Park – Seat and trees
Area 6	Lions Memorial Park – Spring animal and tree planting
Area 7	PAC Park – Picnic shelter
Area 8	Mick Millers's – Establishment, tree planting, swings and spring animals
Area 9	Memorial Hill – Irrigation extension
Area 10	Cheney Park – 2 spring animals and tree planting
Area 11	AE Fox – Tree planting
Area 12	Flinders Street – Establishment, tree planting and spring animals

AREAS FOR SECTION 94
Open Space Assessments

0 100 METERS

SCALE

PARKES SHIRE COUNCIL

SUBMITTED
RESEARCHED
DATE
DRAWN
DATE
SHEET NO.
OF SHEETS

PARKES STREET MAP

SIZES		PARKES SHIRE COUNCIL				SHEET No.	
		PARKES STREET MAP				SHEET 115	
DETAILS							

APPENDIX C

OFF-STREET CAR PARKING SCHEDULE

It is proposed that Section 94 Contributions received in lieu of the provisions of off-street car parking facilities by developers will be used to assist with the development of a public off-street car parking area on land known as Part Lot 18 Section 2 Jansen Lane which was purchased by Council in 1990 for development as a public off-street car parking area.

It is proposed to develop the area as a sealed public off-street car park over the 5 year period 1993/1997. However the complete development of the subject land will depend on the level of Section 94 Contributions received for this purpose during this period.

Works Schedule

1990	Land purchased	\$22,764
1993/1997	Land developed as sealed off-street car parking area	
	Estimated cost	<u>\$19,600</u>
	Total cost of proposal	<u>\$42,364</u>

APPENDIX D

WATER RETICULATION AUGMENTATION SCHEDULE

This schedule refers to water reticulation augmentation works carried out in 1983 by the Central Tablelands County Council to improve the water supply to the land identified in Appendix 1. This work was necessary to enable the area to be developed for small rural holdings.

Parkes Shire Council was levied by the Central Tablelands County Council under Section 572A and 572B of the Local Government Act.

Parkes Shire Council resolved to levy further development of the subject area to assist with the repayments of the loan required to carry out the augmentation work.

Total Loan Repayments = \$98,624

Estimated number of allotments to be serviced by Augmentation = 102

Number of existing properties serviced = 34

Number of potential new allotments = 68

Pro rata augmentation cost = \$69,036

New allotments created to 31st July, 1992 = 39

Total Section 94 Contributions received to 31st July, 1992 = \$40,180

Balance of pro rata cost to be levied = \$28,856

Number of potential additional allotments = 29

Section 94 Contribution per each additional allotment = \$995