

**Section 94 Development  
Contributions Plan**

**Bathurst Regional Rural  
Roadworks**

**(Amendment No. 2)**

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Adopted: 17 September 2014  
Effective Date: 24 October 2015

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## Part A: Summary Schedules

### Schedule 1 Schedule of works

Priority	Sector	Road	Description	Length of gravel (km)	Overall Length of road (km)	Construction Costs per km	Total cost to upgrade
1	North	Hill End Road	From 4.971 to 10.510 km	5.539	41.610	\$250,000	\$1,384,750
2	North	Limekilns Road	From 27.952 to 33.550 km	5.958	38.880	\$250,000	\$1,489,500
3	North	Rivulet Road	From 3.920 to 11.030 km	7.110	11.030	\$250,000	\$1,777,500
4	North	Gowan Road	From 0.030 to 2.050 km	2.020	2.050	\$250,000	\$505,000
1	East	Yarras Lane	From 2.441 to 3.883 km	1.442	3.883	\$250,000	\$360,500
2	East	Brewongle Lane	From 0.254 to 4.470 km & From 5.111 to 6.613 km	5.718	7.616	\$250,000	\$1,429,500
3	East	Wambool Road	From 0.000 to 4.935 km	4.935	5.010	\$250,000	\$1,233,750
4	East	West's Lane	From 0.000 to 1.500 km	1.500	1.500	\$250,000	\$375,000
1	South	Lachlan Road	From 3.141 to 9.304 km	6.163	15.380	\$250,000	\$1,540,750
1	West	Evans Plains Road	From 1.142 to 4.671 km	3.529	5.000	\$250,000	\$882,250
<b>Totals</b>				<b>43.914</b>			<b>\$10,978,500</b>

## **Part B: Administration and operation of the plan**

### **1.0 Administration**

#### **1.1 Name of the Plan**

This development contributions plan is called the “Section 94 Development Contributions Plan - Bathurst Regional Rural Roadworks”.

The plan will be reviewed as required and any amendments will be recorded in the following table:

<b>Plan Title</b>	<b>Amendments</b>	<b>Adoption Date</b>	<b>Version Number</b>
Section 94 Development Contributions Plan - Bathurst Regional Rural Roadworks	New Plan	19 November 2014	1.0
	Section 1.6. To include reference to Clause 7.11 of the Bathurst Regional LEP 2014.	25 October 2015	1.1
Section 94 Development Contributions Plan - Bathurst Regional Rural Roadworks (Amendment 2)	Insertion of Section 1.15, 4.2 & 5.1 relating to the Plan Management and Administration.	14 December 2016	2

#### **1.2 Commencement of the Plan**

This development contributions plan has been prepared pursuant to the provisions of Section 94 of the Environment Planning and Assessment (EP&A) Act 1979 and Part 4 of the EP&A Regulation 2000. The Plan was adopted by Council at its meeting held 17 September 2014 and takes effect from the date on which the Bathurst Regional Local Environmental Plan 2014 is gazetted, pursuant to clause 31(4) of the EP&A Regulation, 2000, that date being 19 November 2014.

#### **1.3 Land to which the plan applies**

The Plan applies to land zoned RU1 Primary Production, RU4 Primary Production Small Lots, E4 Environmental Living, R5 Large Lot Residential in Mount Rankin, The Lagoon, Trunkey Creek and Wattle Flat and RU5 Village pursuant to the Bathurst Regional Local Environmental Plan 2014 and within the Bathurst Regional Local Government Area (LGA).

#### **1.4 Purpose of the Plan**

The primary purpose of this Plan is to satisfy the requirements of the Act and Regulations to enable the Council to require a contribution towards the provision, extension or embellishment of community facilities that will, or are likely to be,

required as a consequence of development in the Local Government Area or that have been provided in anticipation of or to facilitate such development.

Other purposes of this Plan are to:

- (i) Provide a comprehensive strategy for the assessment, collection, expenditure, accounting and review of development contributions for rural road infrastructure on an equitable basis throughout the Region;
- (ii) Provide a comprehensive works schedule for the provision of rural road improvements, including the upgrading of existing roads;
- (iii) Enable the Council to recoup the cost of upgrading rural roads which have been provided in anticipation of development where such development will benefit from the provision of those upgrades;
- (iv) Ensure that the existing community is not burdened by the upgrading of rural roads as identified by this plan and as a result of future development; and
- (v) Provide a connective rural road network.

## **1.5 Relationship to Other Plans and Policies**

The Plan should be read in conjunction with the Bathurst Regional Local Environmental Plan 2014, as amended and the Bathurst Regional Development Control Plan 2014, as amended.

All contributions collected under previous version(s) of this Plan are to be pooled and used for the purposes outlined in this Plan.

## **1.6 When Contributions are to be paid**

Council will impose conditions of consent requiring payment of contributions:

- a) In the case of subdivision where future additional dwellings are permissible – prior to the release of the final linen plan, or a linen plan for any development stage.
- b) In the case of a secondary dwelling (granny flat), second rural dwelling or rural workers dwelling, but not including alterations and additions to an existing dwelling house - prior to the release of the Construction Certificate.
- c) In the case of a dwelling on land classified as an “existing holding” as defined within the Bathurst Regional Local Environmental Plan 2014, as amended - prior to the release of the Construction Certificate.
- d) In the case of a dwelling on land where a dwelling is permissible pursuant to Clause 4.2B (3)(b), Clause 4.2B(3)(d) or Clause 7.11 of the Bathurst Regional Local Environmental Plan 2014, as amended - prior to the release of the Construction Certificate.

- e) In the case of a dwelling on land identified within Schedule 1 – Additional uses of land within the Bathurst Regional Local Environmental Plan 2014, as amended - prior to the release of the Construction Certificate.
- f) In the case of a dwelling on land zoned RU5 Village pursuant to the Bathurst Regional Local Environmental Plan 2014, as amended - prior to the release of a Construction Certificate.

Note: Where a developer contribution has previously been made under the Bathurst Regional Council Contributions Plan Rural Roads (repealed), a credit will be given equivalent to contribution paid.

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

## **1.8 Council's Policy on periodic payments**

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 adjusted to the applicable rate, in accordance with Section 1.10 of this Plan.

## **1.9 Council's Policy on the acceptance of material public benefits (including works in kind)**

Council may in certain circumstances 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 dedication of land identified in this Plan in lieu of all or part of a cash contribution required under this plan.

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

- What WIK or land dedication is proposed;
- The value of the WIK or land dedication proposed;
- The timing of the provision of the WIK or land dedication; and
- What cash contributions it is proposed to offset.

Council is under no obligation of accept the WIK or land dedication, however, may consider doing so in the following circumstances:

- where 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
- where the standard of the works is to Council's full satisfaction.

## **1.10 Review of Contribution Rates**

The contribution rates will be indexed annually in accordance with the Consumer Price Index (CPI) or equivalent relevant indices.

The contributions stated in a development consent are calculated on the basis of the Section 94 contribution rates calculated in accordance with this Plan. If the contributions are not paid within the financial year in which consent is granted, the contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment and adjusted by the Consumer Price Index as published by the Australian Bureau of Statistics All Groups Percentage Changes. Indexation will take place 1 July each year.

The contribution rate will also be reviewed after the publication of each subsequent census in relation to the ABS census result for average persons per dwelling.

The contribution rates for the current financial year are published by Council in its annual Management Plan and are available from Council offices.

## **1.11 Exemptions**

Exemptions will not be given for any development outlined in the Contributions Plan without an express resolution of Council.

## **1.12 Planning Agreements**

Council will seek to negotiate planning agreements for major developments in accordance with s93F of the EP&A Act. Major developments will generally include the following:

- Major Extractive industry;
- Tourism development with a construction value greater than \$10 million;
- Employment generating development that will employ 100 persons after construction;
- Residential development that creates more than 100 lots.

## **1.13 Pooling of Contributions**

This plan expressly authorises monetary Section 94 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.

## **1.14 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 lodgement of the application.

### **1.15 ADMINISTRATION OF THE PLAN**

#### **1.15.1 MANAGEMENT COSTS OF THE PLAN**

Council considers that the costs involved with administering Section 94 are an integral and essential component of the efficient provision of facilities generated by the development in the LGA. Accordingly, costs associated with the ongoing administration and management of the contributions plan will be levied on all applications occasioning a development contribution. These costs will appear as a separate element in the contributions schedule and the method of calculation is described in Section 1.16 of this Plan. Fees collected will cover the implementation, review, monitoring and updating procedures set out in the Plan. In addition studies are undertaken to determine the design and costings of works as well as to review the development and demand assumptions of the contributions plan.

Where a WIK agreement is negotiated between a developer and the Council, the Plan Administration and Management Contribution levy will still apply. This amount will cover plan review costs and also Council's costs associated with negotiating the agreement and supervision work undertaken.

NSW Planning and Environment released a revised Local Development Contributions Practice Note - for the assessment of Local Contributions Plans by IPART, February 2014 (pp 9-10).

Section 3.4.2.3 of the Practice Note identifies that:

Plan administration costs may include:

- background studies, concept plans and cost estimates that are required to prepare the plan, and/or
- project management costs for preparing and implementing the plan (e.g., the employment of someone to co-ordinate the plan).

**Note:** Plan administration costs include only those costs that relate directly and solely to the preparation and implementation of the Section 94 Plan and do not include costs that would otherwise be considered part of Council's key responsibilities such as core strategic planning responsibilities.

# PART C: POPULATION CHARACTERISTICS AND POPULATION

## 2.0 POPULATION CHARACTERISTICS

### 2.1 Area

Bathurst Regional Local Government Area covers an area of approximately 3,821 square kilometres and is located in the Central West region of New South Wales.

### 2.2 Population

The estimated population for the rural catchment area is 5411 people and the average people per household is 2.6 people based on the 2011 Census. (ABS, 2012)

	Existing Number of dwellings	Estimated current population (2011 census)	Average people per household
<b>Bathurst Regional (A) Pt B, Statistical Local Area</b> (Code 140070473 (SLA))	2,453	5,411	2.6

### 2.3 Meeting Needs of the population

Council's modelling has indicated that over the life of this Plan, the overall population forecast for the rural catchment area within the Bathurst Regional LGA will increase as identified in the table below:

	Forecast Years					Change between 2011 & 2031	
	2011	2016	2021	2026	2031	Number	Average annual change (%)
<b>Rural Remainder</b>	5,445	5,442	5,522	5,635	5,737	292	0.25%

(.id.com.au, 2011)

The incoming population will be primarily distributed to the rural villages and rural areas of the LGA. The additional population will create increased demand for a rural road infrastructure and administration of this section 94 Plan.

## 3.0 Plan Objectives

The rural roadworks identified within this Plan are required to service the new population within the rural areas of the LGA:

This Plan identifies:

- the demand for roads likely to be required as a result of development and re-development in the subject area;
- the roads which are likely to be upgraded to meet those demands (for which development contributions could reasonably be charged); and
- the reasonable contribution which should be levied on new development to meet those demands.

Contributions are rounded to the nearest dollar. Note that the range of roads which have been identified involve the ‘linking’ roads which enable connectivity between the major roads within the LGA.

This Plan supports the following objectives of the Bathurst 2036 Community Strategic Plan:

Objective No.	Description
6	To support infrastructure development necessary to enhance Bathurst’s lifestyle and industry development.
7	To support Integrated Transport Infrastructure Development.
24	To provide and support the provision of accessible, affordable and well planned transport systems.
28	To plan for the growth of the region and the protection of the region’s environmental, economic, social and cultural assets.
29	To guide the construction and provision of new infrastructure/facilities and services and the management and upgrading of existing assets and service levels.

### 3.1 Nexus

Nexus is one of the key principles which underpin the developer contributions system along with reasonableness, apportionment and accountability. Nexus refers to the relationship between the proposed development and the demand for public facilities and services created by the development. A contribution levied must be for an increased demand for a community facility that is caused by the development.

There are three aspects to nexus:

- Causal nexus – (what) demonstrates that proposed development will or is likely to create an additional demand for recreation and community facilities within the Bathurst Region;
- Spatial or physical nexus – (where) demonstrates the recreation and community facilities are to be provided within reasonable proximity to the contributing development to cater for the needs of those that created the demand for it;
- Temporal nexus – (when) demonstrates that recreation and community facilities may be provided within a reasonable timeframe.

The growth expected in the LGA is going to result in an increase in the population using the existing gravel road network, contributing to the need for upgrading of those roads to meet a reasonable level of service.

### **3.2 Apportionment**

Apportionment is the “fairness” principle. It means that new development only pays the full cost of a facility if it can be shown that it exclusively causes the increased demand. Where the facility proposed will benefit both the existing and new population, the cost of provision of that facility is apportioned between the existing development being the Council’s contribution, and new development.

### **3.3 Reasonableness**

Reasonableness embraces the concept of fairness and equity. Legal precedent from case law decisions in NSW has established that Section 94 contributions must:

- relate to a clear planning purpose;
- relate to the subject development, which must derive some benefit from open space, recreation and community facilities provided; and
- be reasonable such that a planning authority can properly impose it.
- be used to provide facilities in a reasonable timeframe taking into account the nature of the development and the type of facility.

Section 94 (2) (b) of the Act contains principles of reasonableness. Imposing excessive or unreasonable contribution rates could adversely affect housing affordability and economic viability of projects. In such cases it is important to balance these factors to meet the needs of existing and future residents of the Bathurst Region.

### **3.4 Accountability**

The Council needs to be able to demonstrate that it is accountable for all contributions made under the provisions of section 94 and be transparent in the allocation of those funds in accordance with the Schedule of Works identified in the plan. Development and subsequent population growth rates will be monitored to ensure that the Plan remains relevant and delivery of services and facilities occurs in accordance with the Plan.

### **3.5 Population Increase**

Over the recent past, Bathurst Regional LGA has experienced, on average, an annual population growth of approximately 1%. As outlined in Section 2.3 above, the population of the rural catchment of the Bathurst Regional LGA is expected to reach approximately 5,750 by 2031, representing an annual population growth of the approximately 0.25%.

### **3.6 Meeting Needs of the Population**

The incoming population will be primarily distributed as infill development in the rural villages and scattered development throughout the other rural areas.

## 4.0 Rural roadwork projects

### 4.1 Rural roadworks projects

This section applies to the construction of projects in Schedule 1.

#### 4.1.1 Nexus between Development and Demand

##### Causal Nexus

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 roads. There is, therefore, a clear nexus between new development accessing an existing 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.

##### Physical Nexus

The Bathurst Region has a growing population and its community has requested that Council provide appropriate levels of service for its gravel and sealed road network. The roadworks which have been identified service the whole community as opposed to the new population only. As a result, the cost of upgrading the roads is attributable to the entire population of the rural areas of the Bathurst Regional LGA.

Therefore, it is justified that both the existing and new residents contribute towards the costs of upgrading the rural road network.

##### Temporal Nexus

Due to the scale of the projects to be completed, it is expected that the timing of the works will be ad-hoc. The timetable for the completion of the works is subject to change and is dependent on the rate subdivision of land.

#### 4.1.2 Calculation of Contribution Rates

All rates are determined to the nearest dollar.

##### Rural roadworks projects

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EMBED Equation.3

$C_{pax1}$  = the contribution rate per person

TC = the estimated total cost to Bathurst Regional Council (less any grants or reserves monies)

POP<sub>f</sub> = the total estimated population of the rural catchment of the Bathurst Region in 2031 (ie 5,750 people)

## 4.2 PLAN MANAGEMENT AND ADMINISTRATION

- **NEXUS**

Council employs staff to coordinate the implementation of the Plan and associated works, as well as the financial accounting of contributions received. In addition, consultant studies may be commissioned in order to determine design and costing of works and to review the development and demand assumptions of the contributions plan.

Council considers that the costs involved with administering this Section 94 Plan are an integral and essential component of the efficient provision of facilities demanded by development throughout the Bathurst Regional LGA. The new population should therefore pay a reasonable contribution towards the costs associated with the management and administration of the Plan.

At the time of the preparation of this Plan, it was determined that 1.0% of all development contributions payable over the life of the Plan is a reasonable contribution towards Plan Management and Administration functions.

- **CONTRIBUTION CATCHMENT**

Plan administration and management is based upon the catchment of the Plan and contributions have therefore been applied on this basis.

- **FACILITIES STRATEGY**

The Plan aims to provide funds to ensure the efficient management of the Section 94 planning and financial processes within Council. These processes will be ongoing throughout the life of the Plan.

Council staff accountable for facility/service planning and delivery will be involved in reviewing and updating the Plan. This may include review of the works schedules or the latest information on community needs to ensure that facility planning is current and appropriate. This may also include engaging specialist consultants (eg planning, engineering, traffic, legal and valuation specialists) to carry out studies or to assist with the preparation of the Plan.

## 5.0 Schedule of works

Priority	Sector	Road	Description	Length of gravel	Overall Length of road	Construction Costs per km	Total cost to upgrade
1	North	Hill End Road	From 4.971 to 10.510 km	5.539	41.610	\$250,000	\$1,384,750
2	North	Limekilns Road	From 27.952 to 33.550 km	5.958	38.880	\$250,000	\$1,489,500
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1	East	Yarras Lane	From 2.441 to 3.883 km	1.442	3.883	\$250,000	\$360,500
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3	East	Wambool Road	From 0.000 to 4.935 km	4.935	5.010	\$250,000	\$1,233,750
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1	West	Evans Plains Road	From 1.142 to 4.671 km	3.529	5.000	\$250,000	\$882,250
<b>Totals</b>				<b>43.914</b>			<b>\$10,978,500</b>

## 5.1 Plan administration and management

Studies undertaken to determine the design and costings of works as well as to review the development and demand assumptions of the contributions plan.

Estimate 1% of all development contributions payable.

**At the commencement of the Plan, it is estimated that the maximum contribution from the Plan towards administration and management costs is \$109,785**

## 6.0 Contribution Rate

Priority	Sector	Road	Total cost to upgrade	Population applied to	Cost per person
1	North	Hill End Road	\$1,384,750	5,750	\$240.83
2	North	Limekilns Road	\$1,489,500	5,750	\$259.04
3	North	Rivulet Road	\$1,777,500	5,750	\$309.13
4	North	Gowan Road	\$505,000	5,750	\$87.83
<b>East</b>					
1	East	Yarras Lane	\$360,500	5,750	\$62.70
2	East	Brewongle Lane	\$1,429,500	5,750	\$248.61
3	East	Wambool Road	\$1,233,750	5,750	\$214.57
4	East	West's Lane	\$375,000	5,750	\$65.22
<b>South</b>					
1	South	Lachlan Road	\$1,540,750	5,750	\$267.96
<b>West</b>					
1	West	Evans Plains Road	\$882,250	5,750	\$153.43
<b>Totals</b>			<b>\$10,978,500</b>		<b>\$1909.30 per person</b>

The table below provides the contribution rate per lot.

Cost Per Lot
<b>\$4,964</b>

Note: The cost per lot = Cost per person x 2.6 (average people per dwelling)

For granny flats, rural workers dwellings and second rural dwellings, the apportioned rate applies in accordance with the table below.

	1 Bedroom	2 Bedroom	3 Bedroom	4 or more Bedroom
<b>Apportionment of the Lot rate</b>	40%	60%	80%	100%
<b>Cost per dwelling type</b>	<b>\$1,986</b>	<b>\$2,979</b>	<b>\$3,971</b>	<b>\$4,964</b>

The rates in the above tables will be adjusted on 1 July annually in accordance with Section 1.10 of this Plan.

## **7.0 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.

**Commercial** means a building or place used as an office, place of business or other commercial purpose from which an income is derived.

**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.

**Extractive Industry** means:

- (a) the winning of extractive material; or
- (b) an undertaking, not being a mine, which depends for its operation on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

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

**Nexus** means the relationship between the expected types of development in the area and the demand for additional public facilities to meet that demand.

**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 benefit** means a development contribution that confers a net public benefit, that is, a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community.

**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.

**Region** means the Bathurst Regional Council Local Government Area.

**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.

**Utility service** means basic engineering services such as power, water, sewerage and telecommunications.

**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.

## **8.0 References**

.id.com.au, 2011 Population Summary - Bathurst Regional – Bathurst Regional Council 2006 to 2031 { HYPERLINK

"http://forecast2.id.com.au/Default.aspx?id=361&pg=5180" } Last accessed 1 August 2012.

ABS, 2012. 2011 Census Quickstats Bathurst Regional (A) – Pt B. { HYPERLINK

"http://www.censusdata.abs.gov.au/census\_services/getproduct/census/2011/quickstat/140070473?opendocument&navpos=220" } Last accessed 1 August 2012.