WOLLONGONG SECTION 94A DEVELOPMENT CONTRIBUTIONS PLAN - 2009
UPDATE
Report of Manager Environmental Strategy and Planning (DG) 13/07/09 SU23919

PRECIS

On 14 June 2006 the Wollongong City Council Section 94A Development Contributions Plan came into force. The Section 94A Plan is linked to Council’s Management Plan. The Works Schedule included in the Section 94A Plan is a subset of the works program expressed in the Management Plan. This is the third review of the Section 94A Plan and is required as a consequence of the annual update of the Management Plan.

An external revision of the Section 94A Plan has also occurred which recommends some minor improvements. It is recommended that the draft Section 94A Plan be exhibited for community comment.

RECOMMENDATION

1 The Combined City Wide and City Centre Section 94A Development Contributions Plan 2008 be amended in the following manner:
   a  Rename the Plan as the Wollongong Section 94A Development Contributions Plan;
   b  Update the works program to reflect Council’s Management Plan 2009-2013;
   c  Combine Part A City Wide and Part B Wollongong City Centre into one Part;
   d  Include a Clause relating to the procedures for Complying Development Certifications.
   e  Amend Clause 9 - Exemptions to include the following development as not requiring Section 94A contributions:
      i  Council and State Government community infrastructure activities (clarify the existing provisions); and
      ii  Demolition, not involving the construction of another development.
   f  Remove the proposed acquisition of Lot 2003 DP 1047366 Hill Street, Bulli.

2 The Draft Wollongong Section 94A Contributions Plan be endorsed for public exhibition for a minimum of 28 days to enable community comment.

3 The Minister for Planning be requested to remove the Special Contributions Levy (additional 1% levy) applicable to land within the Wollongong City Centre commercial core.

BACKGROUND

Section 94A of the Environmental Planning and Assessment Act 1979 enables Councils to apply a percentage levy on the cost of development within a specific area. These funds are then applied to new or augmented works within the collection area. A plan of works to expend these funds must be publicly exhibited and adopted. The Section 94A Plans are generally used in developed areas where increased development creates a general increase in demand for services and facilities.

The City-Wide Section 94A Contribution Plan came into force on 14 June 2006. The Section 94A Plan repealed twelve (12) Section 94 Plans. In January 2007 it was amended to include an additional levy for the Wollongong City Centre and renamed, “Combined City Wide and City Centre Section 94A Development Contributions Plan.” The only remaining Section 94 Plan applies to Horsley. The Horsley Section 94 Plan is being reviewed as part of the West Dapto Release Area.
The Section 94A Plan requires the payment of contributions based on the value of development:

- Up to $100,000 - Nil
- 0.5% for developments with a cost of between $100,001 to $200,000
- 1% for developments with a cost of more than $200,000
- 2% for developments with a cost greater than $250,000 in the Wollongong City Centre
- Developments over $250,000 in the Wollongong City Centre pay an additional 1% levy to the NSW Department of Planning under Section 94EE.

The Section 94A Plan is linked to Council’s Management Plan so that there is a single process and a single works schedule that governs Council’s infrastructure provision and activities. The Management Plan is the document which provides the community with an overview of the major projects and activities proposed by Council for the next three (3) years, including the budget. The Management Plan is reviewed on an annual basis and the major projects and activities are reviewed and amended accordingly. The Section 94A Plan needs to be updated annually to remain consistent with the Management Plan.

The Environmental Planning and Assessment Amendment Act 2008 proposes changes to Section 94/94A Development Contributions. Part of the legislation has not commenced, and its timing is now unknown. The Department of Planning indicates the timing to be “post July 2009, to be determined.” A major review of Council’s Section 94A plan is proposed to occur following the implementation of the new legislative framework.

**PROPOSAL**

This report proposes that the Section 94A plan be updated to reflect the Works Program in Council’s Management Plan 2009-12 and to implement recommendation of a review of the plan. The report also details an amendment relating to land at Sandon Point, Bulli and a review of the City Centre Section EE levy.

1 **Works Program:**

The Management Plan 2009-2012 was endorsed by Council at its meeting on 23 June 2009. The Management Plan includes fourteen (14) projects for which $12.2 million of funding is met by Section 94A funds over the next three years. It is appropriate to review and update the Section 94A Plan to reflect the current Works Schedule contained within the draft Management Plan.

The Section 94A Plan is a legislative document which is governed by the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000. One of the requirements for a contributions plan under Regulation 27(1)(h) is that a contributions plan must include a “map showing the specific public amenities and services proposed to be provided by the Council, supported by a works schedule that contains an estimate of their cost and staging (whether by reference to dates or thresholds),”

In order to comply with Section 94A legislation, the items within the Works Schedule detailed in the draft Management Plan 2009-2012 which rely on Section 94A funding have been incorporated into the draft Section 94A Plan attached to this report.
2 Sandon Point Open Space Land Acquisition

In 2003, Council prepared a Section 94 Development Contribution Plan for the acquisition of four parcels of land zoned 6(a) Public Recreation at Sandon Point, Bulli. One parcel was acquired and the other three parcels have remained in private ownership. In 2006, the Section 94 Plan was incorporated into the City-wide Section 94A Development Contribution Plan.

Council’s previous Management Plan (2008-11) and the current Section 94A Plan identified that Council would acquire open space land at Sandon Point, Bulli during 2008-09.

Council at its meeting on 24 June 2008 considered a report proposing the acquisition of the three parcels. Council resolved to explore the legal compulsion on Council to acquire these lands. Council at its meeting on 16 December 2008 considered a report on the legal review, which indicated that Council has no obligation to buy the land. Council resolved (in part) to:

1. Note the legal advice that Council is under no compulsion to purchase the 6(a) zoned lands, being Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047336, at Sandon Point.
2. The proposed acquisition of Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047336 at Sandon Point, valued at $4.08m be removed from Council’s capital budget.
3. The purchase of Lots 3 and 4 DP 588060, Lot 238 DP 1048602 and Lot 2003 DP 1047336 at Sandon Point be removed at the next revision of the Section 94A Plan.

Council at its meeting on 26 May 2009, considered a further report on the acquisition of the open space lands, at Sandon Point and resolved that:

1. Council authorise the acquisition from Stockland Development Pty Ltd of:
   a. Lots 3 and 4 DP 588060 and Lot 238 DP 1048602 for the consideration of $1,520,000; and
   b. Part of Lot 235 DP 1048602 as shown in Attachment 1 of the report for the consideration of $315,000.
2. Upon acquisition, the land be classified as Community land.
3. Authority be granted to affix the Common Seal of Council to the contracts for sale and plan of dedication for the Wrexham Road extension, together with any other documentation required to give effect to this resolution.

The acquisition of Lots 3 and 4 DP 588060, and Lot 238 DP 1048602 and part of Lot 235 DP 1048602 is progressing and is anticipated to be finalised in the current financial year. Until the acquisition has been finalised, the Section 94A plan should continue to identify the acquisition of the lands.

Council has resolved not to acquire Lot 2003 DP 1047336, the Hill Street property, and this site is proposed to be removed from the Section 94A Plan. It is noted that a condition of Development Consent No. 2000/830 required this land to be dedicated to Council. This issue is being separately investigated by the City Planning Division.

3 Section 94A Plan Review

A review of the Section 94A plan has been undertaken by Newplan Consulting, which included a review against legislative requirements and consultation with Council officers from a number of Divisions.
The review concluded that the current Section 94A Plan is consistent with legislative requirements. However, there are a number of aspects that can be improved, and these are summarised in the following table:

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<thead>
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<th>Proposed Action</th>
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<tr>
<td>The plan could be simplified by merging Part A - City wide and Part B - City Centre, to standardise administrative requirements.</td>
<td>Parts A and B have been combined and it is proposed that the Plan be renamed the “Wollongong S94A Development Contributions Plan.”</td>
</tr>
<tr>
<td>No policy for the timing of payment of levies to City Centre</td>
<td>Resolved by merging Parts A and B.</td>
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<td>Some works project descriptions need to be more specific.</td>
<td>Descriptions updated.</td>
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<td>Some works projects appear to be renewal infrastructure rather than new facilities.</td>
<td>Works activities reviewed as part of the preparation of the Management Plan to ensure consistency.</td>
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<td>Current Maps do not show the location of “Special City Centre Projects”</td>
<td>Schedules 4 and 5 shows the location of projects once incorporated into the Management Plan. The timing of the projects in Schedule 3 has not been determined as it is dependant upon funding. The Schedule has been amended to minimise confusion.</td>
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<tr>
<td>A staging schedule is required for Special City Centre projects.</td>
<td>The City Centre projects are not proposed to be undertaken during the current Management Plan period as no funds have been received.</td>
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<td>The list of development exemptions should be updated to more comprehensively list “community service” exemptions</td>
<td>Amend Clause 9(g) to include: - Clarify that Council recreation facilities; community facilities and infrastructure facilities are exempt; - Clarify that State Government community services, transport services are exempt; - Demolition (where there is no replacement building) is exempt</td>
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<tr>
<td>Clarify Complying Development Certificates</td>
<td>A new section has been included for Complying Development Certificates.</td>
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These changes are minor and will clarify the operation and implementation of the Plan. As noted, a comprehensive review of the Section 94A Plan will occur following the implementation of the legislative changes which are anticipated to occur later this year.

4 Special Contributions Levy on Developments in the City Centre

In February 2007, the Minister for Planning established the Wollongong City Centre as a Special Contributions Area which enabled the creation of the special contributions levy under Section 94EE of the Environmental Planning and Assessment Act 1979.

The Minister issued a Direction to Wollongong City Council to impose, as a condition of consent on all development with a cost of more than $250,000 and which increases the gross floor area on land within the commercial core zone, a requirement to pay an additional 1%
levy to the Director-General of Planning. The collected funds to contribute to the Wollongong Railway Station upgrade and Wollongong Harbour redevelopment.

It is recommended that Council request the Minister for Planning to remove the Special Contributions Levy (additional 1% levy) applicable to land within the commercial core of the City Centre as:

- The additional 1% levy payable under Section 94EE does not apply to any other regional city.
- The additional 1% levy discourages development and investment from occurring in the commercial core.
- The NSW Government no longer seeks development contributions for rail and harbour infrastructure.

CONSULTATION AND COMMUNICATION

If Council endorses the revised draft Plan it will be exhibited for a minimum period of 28 days. Copies will be available on Council’s website and at Council’s libraries.

Following the exhibition period, a report on submissions will be prepared for Council’s consideration.

CONCLUSION

The Wollongong Section 94A Plan is an important mechanism to assist with funding community infrastructure within the City. This report recommends that the existing plan be updated to reflect Council’s Management Plan 2009-12 and a number of amendments be made to clarify the operation of the Plan. It is recommended that the amended draft Plan be exhibited for community comment.

<table>
<thead>
<tr>
<th>Name</th>
<th>Position Title</th>
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<tbody>
<tr>
<td>Author:</td>
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<tr>
<td>David Green</td>
<td>Land Use Planning Manager</td>
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<td>Authorised by:</td>
<td></td>
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<tr>
<td>Renee Campbell</td>
<td>Manager Environmental Strategy &amp; Planning</td>
</tr>
<tr>
<td>Andrew Carfield</td>
<td>Director Planning &amp; Environment</td>
</tr>
<tr>
<td>David Farmer</td>
<td>General Manager</td>
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ATTACHMENTS

1. Draft Wollongong Section 94A Development Contributions Plan (2009).
Draft Wollongong Section 94A

Development Contributions Plan (2009)
Draft Wollongong Section 94A Development Contributions Plan (2009)

Document Control

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<th>Author</th>
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Part A - Administration and operation of the plan

1. What is the name of this contributions plan?
This Plan is called the “Wollongong City Council Section 94A Development Contributions Plan”

2. Where does this plan apply?
This plan applies to all land within the local government area of Wollongong City Council excluding Horsley as shown on Figure 1.

3. What is the purpose of this contributions plan?
The purposes of this contributions 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 EP&A Act 1979.
- 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.

4. When does this development contributions plan commence?
This Development Contributions plan takes effect from the date on which public notice was published, pursuant to clause 31(4) of the Environmental Planning and Assessment Regulation 2000.

This Section 94A Contributions Plan was adopted by Council at its Meeting of [adoption date to be inserted] 2009 and came into force on [in force date to be inserted] 2009.

5. Relationship with other development contribution plans
This plan repealed the following section 94 / 94A contributions plans applying in the Wollongong local government area:

- Wollongong Section 94A Contributions Plan (2008 version) – this plan repealed the following plan:
  - Wollongong Section 94A Contributions Plan (2007 version) – this plan repealed the following plan:
  - Wollongong Section 94A Contributions Plan (2006 version) – this plan repealed the following Section 94 plans:
    - CP No 1 Open Space Embellishment, Recreation Facilities, Community Facilities
    - Amendment to CP No 1 Open Space
    - CP No 2 Traffic Management & Road Works in City of Wollongong
    - CP No 3 Car Parking in the City of Wollongong
    - CP No 4 Studies & Administration
    - CP No 6 Car Parking in Area between Fairy Creek & Georges Plan Nth Wollongong
    - CP No 7 Open Space Dedication (Nth Side Kanahooka Road),
    - CP No 8 Roundabout at the intersection of Unara Road, Yalunga Street & Princes Highway, Dapto
    - CP No 9 Mount Brown Local Area Traffic Management Scheme
    - CP No 10 Bank Street (Road Works & Intersection Upgrade)
    - CP No 11 Bank Street (Car Parking Facility between Bank & Stewart Sts)
    - CP No 12 Sandon Point Section 94 Land Acquisition
    - CP No 13 Library Resources

Any other section 94 contributions plans that are not repealed continue to apply to all areas and development to which they are stated to apply.
6. **What does Section 94A of the Act provide?**

Section 94A of the Act provides as follows:

**94A Fixed development consent levies**

1. A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.

2. A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.

3. Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.

4. A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.

7. **Council may require payment of the levy as a condition of development consent**

   1. This plan authorises the Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay to the Council a levy of 1% of the proposed cost of carrying out the development. The rate of the levy is as follows:

<table>
<thead>
<tr>
<th>Proposed cost of the development</th>
<th>Maximum percentage of the levy</th>
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<tbody>
<tr>
<td>Up to $100,000</td>
<td>Nil</td>
</tr>
<tr>
<td>$100,001 - $200,000</td>
<td>0.5%</td>
</tr>
<tr>
<td>More than $200,000</td>
<td>1%</td>
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</tbody>
</table>

   2. Within the B3 Commercial Core zone in the Wollongong City Centre an additional 1% levy is applied to all development with a cost of more than $250,000 and that increases the gross floor area (ie total levy of 2%).

   This contribution provides funding towards the Special City Projects nominated in the Civic Improvements Plan for the Wollongong City Centre (reproduced in Schedule 3). The timing of the implementation of the projects will be determined through Council’s Management Plan process as funding permits, and then detailed in Schedule 4.

   Note: The NSW Government (Department of Planning) has imposed an additional 1% levy under Section 94EE of the Environmental Planning and Assessment Act 1979 for development with a cost of more than $250,000 in the Commercial Core (B3 zone), within the Wollongong City Centre. The funds are to be used towards improvements to regional infrastructure, namely the Wollongong Railway Station and Wollongong Harbour.

8. **Development to which this plan applies**

   This Plan applies to all applications for development consent and complying development certificates required to be made by or under Part 4 of the Act in respect of development on land to which this plan applies.

9. **Are there any exemptions to the levy?**

   A Minister’s Direction (dated 10 November 2006) under Section 94E of the Environmental Planning and Assessment Act 1979 requires that a Section 94A levy cannot be imposed for:

   a. An application for the purpose of disabled access;
   b. An application for the sole purpose of affordable housing;
   c. An application for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building;
   d. An application for the sole purpose of adaptive re-use of an item of environmental heritage;
e. An application other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out;

In addition, Council may allow for the following exemptions (partial or full):

f. An application for an attached dual occupancy development with a floor area less than 55m² as stipulated in the Complying Development - Development Control Plan No.99/1;

g. An application by or on behalf of the Council for community infrastructure, such as public libraries, community facilities, child care facilities, recreational areas, recreational facilities or car parks;

h. An application for or on behalf of the NSW Government for public infrastructure, such as public hospitals, police stations, fire stations, education facilities and public transport infrastructure;

i. Any other development for which Council considers an exemption is warranted, where the decision is made by formal ratification of the Council at a public Council meeting.

j. An application for an Industrial, retail or commercial development, where there is no increase in floor space within an existing building.

k. An application for the continued operation of a coal mine, where rail transport is used for the transportation of coal.

l. An application for a place of public worship.

m. An application for demolition (where there is no replacement building or development).

In the case of points i to m. above, for such claims to be considered, any such development will need to include a comprehensive submission arguing the case for exemption and including details of the mechanism ensuring that such development will remain in the form proposed in the future, or how the development will incorporate the maintenance of the item of heritage significance where relevant.

A comprehensive submission is not required for points a to h from the above paragraph.

10. Complying Development Certificates and the obligations of accredited certifiers

Development applications for Complying Development are also subject to the provisions of this plan, and the payment of a Section 94A contribution. The Complying Development Certificate is to include a condition that requires the payment of a Section 94A contribution (in accordance with the requirements of clauses 7 to 9 above).

As the construction certificate is issued concurrently, payment is to be made to Council within 7 days of the date of the Complying Development Certificate.

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 the council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

11. Construction certificates and the obligations of accredited certifiers

In accordance with Section 94EC of the Environmental Planning and Assessment Act and 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 levies 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 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 the Council has agreed to a works in kind, material public benefit, dedication of land, or deferred payment arrangement. In such cases, council will issue a letter confirming that an alternative payment method has been agreed with the applicant.
12. How is the proposed cost of carrying out development determined?

Clause 25J of the Regulation sets out how the proposed cost of carrying out development is to be determined. That clause provides as follows:

“The 25J Section 94A levy—determination of proposed cost of development

(1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:

(a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,

(b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,

(c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.

(2) ...(clause deleted)

(3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:

(a) the cost of the land on which the development is to be carried out,

(b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,

(c) the costs associated with marketing or financing the development (including interest on any loans),

(d) the costs associated with legal work carried out or to be carried out in connection with the development,

(e) project management costs associated with the development,

(f) the cost of building insurance in respect of the development,

(g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),

(h) the costs of commercial stock inventory,

(i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law.”

13. Cost estimate reports must accompany an application for a development application or a complying development certificate

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

- where the estimate of the proposed cost of carrying out the development is less than $1,000,000 - a cost summary report in accordance with Schedule 1;
- where the estimate of the proposed cost of carrying out the development is $1,000,000 or more - a detailed cost report in accordance with Schedule 2.

14. Who may provide a report for the purposes of clause 12 of this plan?

For the purpose of clause 25J(2) of the Regulation and clause 12 of this plan, the following persons are approved by the Council to provide an estimate of the proposed cost of carrying out development in the following circumstances:

- where the proposed development cost is less than $10,000,000 - a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report;
- where the proposed development cost is $10,000,000 or more – a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors.
Upon reviewing a cost summary report, the Council may require a further estimate to be provided by a registered quantity surveyor at the applicant’s cost. The Council may, at the applicant’s cost, engage a person referred to in this clause to review a report submitted by an applicant in accordance with clause 12.

15. How will the Council apply money obtained from the levy?
Money paid to the Council under a condition authorised by this plan is to be applied by the Council towards meeting the cost of the public facilities that will be or have been provided within the area as listed in Schedule 4.

16. What are the funding priorities from levies authorised by this plan?
Subject to s93E(2) of the Act and clause 16 of this plan, the public facilities listed in Schedule 4 are to be provided in accordance with the staging set out in that Schedule.

17. Pooling of levies
For the purposes of s93E(2) of the Act, this plan authorises money obtained from levies paid in respect of different developments to be pooled and applied by the Council progressively towards the public facilities listed in Schedule 4 in accordance with the staging set out in that Schedule.

18. When is the levy payable?
A levy to be paid by a condition authorised by this plan must be paid to the Council at the time specified in the condition. If no time is specified, the levy must be paid in full prior to the first construction or subdivision certificate issued in respect of the development under Part 4A of the EP&A Act.

19. Can deferred or periodic payments of levies be made?
Deferred or periodic payments may be permitted in the following circumstances:

- Deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program
- In other circumstances considered reasonable by council

For a deferred or periodic payment to be considered, the applicant must satisfy to Council that:

- There are valid reasons for deferred or periodic payment
- No prejudice will be caused to the community deriving benefit from the services being provided under this plan
- No prejudice will be caused to the efficiency and operation of this development contribution plan

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

a) 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.
b) Any charges associated with establishing or operating the bank security are payable by the applicant.
c) The bank guarantee must carry specific wording identifying the exact obligation to which it relates (ie. section 94A development contributions for development of Lot x DP xxx under Development Consent No. xxx)
d) 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
e) 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
f) 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
g) 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
20. Are there alternatives to payment of the levy?

The council may accept an offer by the applicant to provide an “in-kind” contribution (i.e., the applicant completes part or all of the work(s) identified in the plan) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this plan. The decision to accept such offers is at the sole discretion of the Council.

Council may accept such alternatives in the following circumstances:

a) Offer made to the Council as part of a development application

The applicant may include in the relevant development application or in an application for a modification under section 96 of the Act, an offer to carry out works or provide a material public benefit towards which the levy is to be applied. The Council will consider the offer as part of its assessment of the development application or as an application for a modification to a development approval under section 96 of the Act where a levy has been imposed pursuant to this plan. If the Council agrees to the arrangement and grants consent to the application, it will substitute a condition of consent under section 80A or section 96 of the Act (whichever is relevant) requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under section 94A.

In assessing the applicant’s offer, the Council will have regard to any relevant requirements of the current Practice Note issued by the NSW Government (DIPNR 2005) and such other matters as the Council considers relevant in the circumstances of the case including, but not limited to:

(a) 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
(b) the standard of the works is to council’s full satisfaction and the works are handed over to the Council without restriction of limitation; and
(c) 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.

b) Offer to enter into a voluntary planning agreement

An applicant may offer to enter into a voluntary planning agreement with the Council under s93F of the EP&A Act in connection with the making of a development application. This offer may include payment of money, dedication of land, the carrying out of works, or another material public benefit for public purposes. Those purposes need not relate to the impacts of the applicant’s development nor to the items listed in Schedule 4.

The applicant’s provision under a planning agreement may be additional to or instead of paying a levy in accordance with a condition of development consent authorised by this plan. This will be a matter for negotiation with the Council. The offer to enter into the planning agreement together with a copy of the draft agreement should accompany the relevant development application.

The Council will publicly notify the draft planning agreement and an explanatory note relating to the draft agreement along with the development application and will consider the agreement as part of its assessment of that application.

If the Council agrees to enter into the planning agreement, it may impose a condition of development consent under s93I (3) of the EP&A Act requiring the agreement to be entered into and performed. If the Council does not agree to enter into the planning agreement, it may grant consent subject to a condition authorised by this plan requiring the payment of a levy.

Applicants should refer to the Council’s Policy on Planning Agreements, which has been prepared having regard to the Practice Note on Planning Agreements (DIPNR 2005).
21. How will the levy be adjusted?
As the date of the consent may vary to the actual time of payment of the contribution, Clause 25(4) of the EP&A Regulation allows council to adjust the contribution to reflect current between the date of the consent and the time of payment. Contributions required as a condition of consent under the provisions of this plan will be indexed quarterly in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

The following formula for indexing contributions is to be used:

\[
\text{Contribution at time of payment} = \frac{C}{C_{P1}} \times \left(\frac{C_{P2}}{C_{P1}}\right)
\]

Where

- \(C\) is the original contribution as set out in the consent
- \(C_{P1}\) is the Consumer Price Index (all groups index for Sydney) used in the proceeding indexation calculation
- \(C_{P2}\) is the Consumer Price Index (all groups index for Sydney) at the time of indexation

22. What definitions apply?
In this plan, unless the context or subject matter otherwise indicates or requires, the following definitions apply:

- **ABS** means the Australian Bureau of Statistics
- **EP&A Act** means the Environmental Planning and Assessment Act 1979
- **Council** means The Wollongong City Council
- **Development contributions** means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act
- **Levy** means a levy under section 94A of the Act authorised by this plan
- **Public facility** means a public amenity or public service
- **Regulation** means the Environmental Planning and Assessment Regulation 2000

23. 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 this plan.
Part B – Expected development and demand for public facilities

This part broadly discusses the relationship between the expected types of development in the Council’s area and the demand for additional public amenities and services to meet that development. That relationship is established through current demographic information.

The expected types of development are but not limited to:

- Alterations and additions to existing development
- Dwellings of all forms
- Commercial development located primarily in commercial precincts
- Industrial development
- Subdivisions
- Mixed use development

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

- The population projections undertaken by Council, adopted from the Australian Bureau of Statistics (ABS) information indicates that continued population growth in Wollongong is expected. A projected population of 234,000 is expected by 2026.
- Accelerating housing costs in metropolitan Sydney contribute to certain pressures in Wollongong, particularly new housing developments, which will largely impact the future needs of the region
- The likely population growth will diminish the enjoyment and standard of public facilities for the existing population unless additional facilities are provided to meet the additional demand.
- The likely growth will require the provision of additional public facilities to meet additional demands

Wollongong City Council want to ensure that it has a sustainable local government area, safeguarding the economic, social, cultural, and environmental wellbeing of present and future generations. The section 94A levy will enable Council to provide high quality and diverse public facilities to meet the expectations of the existing and new residents of Wollongong City Council.

The additional public facilities to be provided to meet the expected future development are set out in Schedule 4.

The demand for facilities within the Wollongong City Centre is based on the growth and development projected for the Wollongong City Centre in the Illawarra Regional Strategy and Wollongong City Centre Plan. In particular, this includes the total developable floor space allowed under the Wollongong City Centre LEP and DCP.

The special city centre projects are identified in the Wollongong City Centre Plan – Civic Improvement Plan as needed to support growth and development in the city centre.
# Schedule 1 - Cost Summary Report

**(Clause 12)**

## Cost Summary Report

**[Development Cost less than $10,000,000]**

**DEVELOPMENT APPLICATION No.:** 

**REFERENCE:**

**CONSTRUCTION CERTIFICATE No.:** 

**DATE:**

**APPLICANT’S NAME:**

**APPLICANT’S ADDRESS:**

**DEVELOPMENT NAME:**

**DEVELOPMENT ADDRESS:**

### ANALYSIS OF DEVELOPMENT COSTS:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demolition and alterations</td>
<td>$</td>
</tr>
<tr>
<td>Structure</td>
<td>$</td>
</tr>
<tr>
<td>External walls, windows and doors</td>
<td>$</td>
</tr>
<tr>
<td>Internal walls, screens and doors</td>
<td>$</td>
</tr>
<tr>
<td>Wall finishes</td>
<td>$</td>
</tr>
<tr>
<td>Floor finishes</td>
<td>$</td>
</tr>
<tr>
<td>Ceiling finishes</td>
<td>$</td>
</tr>
<tr>
<td>Fittings and equipment</td>
<td>$</td>
</tr>
<tr>
<td>Hydraulic services</td>
<td>$</td>
</tr>
<tr>
<td>Mechanical services</td>
<td>$</td>
</tr>
<tr>
<td>Fire services</td>
<td>$</td>
</tr>
<tr>
<td>Lift services</td>
<td>$</td>
</tr>
<tr>
<td>External works</td>
<td>$</td>
</tr>
<tr>
<td>Other related work</td>
<td>$</td>
</tr>
<tr>
<td>Sub-total</td>
<td>$</td>
</tr>
</tbody>
</table>

**Sub-total above carried forward:** $ 

**Preliminaries and margin:** $ 

**Sub-total:** $ 

**Consultant Fees:** $ 

**Other related development costs:** $ 

**Sub-total:** $ 

**Goods and Services Tax:** $ 

**TOTAL DEVELOPMENT COST:** $ 

---

I certify that I have:

- Inspected the plans the subject of the application for development consent or construction certificate
- Calculated the development costs in accordance with the definition of development costs in clause 25J of the EP&A Regulation 2000 at current prices
- Included GST in the calculation of development cost

**Signed:** ____________________________

**Name:** ____________________________

**Position and Qualifications:** ____________________________

**Date:** ____________________________
ATTACHMENT 1 - Draft Wollongong Section 94A Development Contributions Plan (2009)  

Schedule 2 - Detailed Cost Report

Registered Quantity Surveyor’s Detailed Cost Report

[Development Cost in excess of $10,000,000]

* A member of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No.  REFERENCE:

CONSTRUCTION CERTIFICATE No.  DATE:

APPLICANT’S NAME:

APPLICANT’S ADDRESS:

DEVELOPMENT NAME:

DEVELOPMENT ADDRESS:

DEVELOPMENT DETAILS:

<table>
<thead>
<tr>
<th>Gross Floor Area – Commercial</th>
<th>m²</th>
<th>Gross Floor Area – Other</th>
<th>m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Floor Area – Residential</td>
<td>m²</td>
<td>Total Gross Floor Area</td>
<td>m²</td>
</tr>
<tr>
<td>Gross Floor Area – Retail</td>
<td>m²</td>
<td>Total Site Area</td>
<td>m²</td>
</tr>
<tr>
<td>Gross Floor Area – Car Parking</td>
<td>m²</td>
<td>Total Car Parking Spaces</td>
<td></td>
</tr>
</tbody>
</table>

Total Development Cost $

Total Construction Cost $

Total GST $

ESTIMATE DETAILS:

<table>
<thead>
<tr>
<th>Professional Fees</th>
<th>$</th>
<th>Excavation</th>
<th>$</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of Development Cost</td>
<td>%</td>
<td>Cost per square metre of site area</td>
<td>$ /m²</td>
</tr>
<tr>
<td>% of Construction Cost</td>
<td>%</td>
<td>Car Park</td>
<td>$</td>
</tr>
<tr>
<td>Demolition and Site Preparation</td>
<td>$</td>
<td>Cost per square metre of site area</td>
<td>$ /m²</td>
</tr>
<tr>
<td>Cost per square metre of site area</td>
<td>$ /m²</td>
<td>Cost per space</td>
<td>$ /space</td>
</tr>
<tr>
<td>Construction – Commercial</td>
<td>$</td>
<td>Fit-out – Commercial</td>
<td>$</td>
</tr>
<tr>
<td>Cost per square metre of site area</td>
<td>$ /m²</td>
<td>Cost per m² of commercial area</td>
<td>$ /m²</td>
</tr>
<tr>
<td>Construction – Residential</td>
<td>$</td>
<td>Fit-out – Residential</td>
<td>$</td>
</tr>
<tr>
<td>Cost per square metre of residential area</td>
<td>$ /m²</td>
<td>Cost per m² of residential area</td>
<td>$ /m²</td>
</tr>
<tr>
<td>Construction – Retail</td>
<td>$</td>
<td>Fit-out – Retail</td>
<td>$</td>
</tr>
<tr>
<td>Cost per square metre of retail area</td>
<td>$ /m²</td>
<td>Cost per m² of retail area</td>
<td>$ /m²</td>
</tr>
</tbody>
</table>

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 section 94A Development Contributions Plan of the council of the City of Wollongong 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: __________________________
### Schedule 3 - Special City Projects

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crown Street Upgrade</td>
<td>$12,000,000</td>
</tr>
<tr>
<td>City Beach Waterfront Improvements</td>
<td>$11,000,000</td>
</tr>
<tr>
<td>Civic Precinct Revitalisation</td>
<td>$21,000,000</td>
</tr>
<tr>
<td>MacCabe Park Landscape Improvements</td>
<td>$12,000,000</td>
</tr>
<tr>
<td>Bus Transport Initiatives</td>
<td>$20,000,000</td>
</tr>
<tr>
<td>Traffic Management Works</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>City Centre Car Park</td>
<td>$8,000,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$86,000,000</strong></td>
</tr>
</tbody>
</table>

Note: Timing of implementation will be determined through Council’s Management Plan process as funding permits, and will be detailed in Schedule 4.
**Schedule 4 – Works Schedule**

The works listed in this schedule may be funded from a mix of sources, including contributions collected from this plan.

<table>
<thead>
<tr>
<th>Project</th>
<th>Section 94A contribution (2009-10 to 2011-12)</th>
<th>Timing of Section 94A expenditure</th>
<th>Timing of other funding (non-Section 94A)</th>
<th>Project Cost (2009-10 to 2011-12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roads and Bridges</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bong Bong Road, Dapto</td>
<td>$2,350,000</td>
<td>$500,000</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Keira Street Transit Mall Re-opening design</td>
<td>$3,000,000</td>
<td>$1,500,000</td>
<td>$1,500,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>City Centre Public Transport</td>
<td>$500,000</td>
<td></td>
<td>$500,000</td>
<td></td>
</tr>
<tr>
<td>Sub total</td>
<td>$5,850,000</td>
<td>$2,050,000</td>
<td>$3,000,000</td>
<td>$800,000</td>
</tr>
<tr>
<td>Footpaths and Cycleways</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shared (Cycleways) Pathways - New (bulk vote) - see Bicycle Plan</td>
<td>$900,000</td>
<td>$300,000</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>City wide Footpaths - New (bulk vote)</td>
<td>$1,150,000</td>
<td>$550,000</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Sub total</td>
<td>$2,050,000</td>
<td>$950,000</td>
<td>$600,000</td>
<td>$600,000</td>
</tr>
<tr>
<td>Car parks</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City wide car parks - New (bulk vote)</td>
<td>$900,000</td>
<td>$300,000</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Sub total</td>
<td>$900,000</td>
<td>$300,000</td>
<td>$300,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Non-Commercial buildings</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public transport facilities</td>
<td>$650,000</td>
<td>$650,000</td>
<td>$650,000</td>
<td>$650,000</td>
</tr>
<tr>
<td>Dapto District Community centre</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Sub total</td>
<td>$650,000</td>
<td>$650,000</td>
<td>$650,000</td>
<td>$650,000</td>
</tr>
<tr>
<td>Parks, Gardens and sportsfields</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Playground installations</td>
<td>$600,000</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$200,000</td>
</tr>
<tr>
<td>Thomas Gibson Park, Thirroul - embellishment</td>
<td>$350,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Acquisition of Lots 3 &amp; 4 DP 959081, Lot 238 DP 1048592 and part of Lot 235 DP 1048592, Sandon Point, Bulli</td>
<td>$1,835,000</td>
<td>$1,835,000</td>
<td>$1,835,000</td>
<td>$1,835,000</td>
</tr>
<tr>
<td>Sportsfield Irrigation Infrastructure - New (bulk vote)</td>
<td>$270,000</td>
<td>$90,000</td>
<td>$90,000</td>
<td>$90,000</td>
</tr>
<tr>
<td>Fred Finch Park, Berkeley - Landscape and Design &amp; Infrastructure</td>
<td>$450,000</td>
<td>$150,000</td>
<td>$150,000</td>
<td>$150,000</td>
</tr>
<tr>
<td>Southern Suburbs Skate Park</td>
<td>$550,000</td>
<td>$500,000</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Central CBD skate park</td>
<td>$550,000</td>
<td>$500,000</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Sub total</td>
<td>$4,585,000</td>
<td>$2,475,000</td>
<td>$1,176,000</td>
<td>$940,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$14,035,000</td>
<td>$6,325,000</td>
<td>$5,070,000</td>
<td>$2,640,000</td>
</tr>
</tbody>
</table>
Schedule 5 - Works Schedule – Maps

Section 94A 2009

Legend
- Community Land
Section 94A 2009

Legend
- Community Land