

**Section 94 Development
Contributions Plan**

Bathurst CBD Car Parking

AMENDMENT 1

Adopted: 17 September 2014
Effective Date: 19 November 2014

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Part A: Summary Schedules

Schedule 1

Provision of ground level or multi level car park facilities and enhancement of the carpark where onsite carparking is NOT provided in accordance with the DCP.

A schedule of works is unable to be determined at the commencement of this Plan. The required works is dependent on development proposals which are unable to provide onsite car parking spaces. The funds collected under this Plan for this purpose will be expended on providing additional car parking facilities within the Bathurst CBD.

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 Developer Contributions Plan – Bathurst CBD Car Parking”.

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

Plan Title	Amendments	Adoption Date	Version Number
Section 94 Developer Contributions Plan – Bathurst CBD Car Parking	New Plan	17 September 2014	0
Section 94 Developer Contributions Plan – Bathurst CBD Car Parking (Amendment 1)	Insertion of Section 1.14, 4.2 & 5.2 relating to the Plan Management and Administration.	14 December 2016	1

1.2 Commencement of the Plan

This developer 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 public notice was published, 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 within the Bathurst CBD bounded by the heavy black line on the map marked “Section 94 Developer Contributions Plan - Bathurst CBD Car Parking Plan” attached to this Plan.

1.4 Purpose of the Plan

This Contributions Plan outlines Council's policy regarding the application of Section 94 (s.94) of the Environmental Planning and Assessment Act, 1979 in relation to the provision of local infrastructure that will be required as a consequence of development in the area or that has been provided in anticipation of or to facilitate such development.

Section 94 of the Act permits Council to require persons or entities developing land to pay monetary contributions, provide capital works (works in kind), and/or dedicate land in order to help fund the increased demand for public amenities and public services (amenities and services) generated through their developments.

Other purposes of this Plan are to:

- (i) Ensure that the existing community is not burdened by the provision of car parking facilities required as a result of future development where car parking is not provided onsite in accordance with the rate set by the Bathurst Regional Development Control Plan (DCP).
- (ii) Allow the accumulation of funds which can be used for the development of properly planned and suitably located parking areas.

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 ;
- The Bathurst Regional Development Control Plan 2014, as amended;
- The Bathurst CBD & Bulky Goods Business Development Strategy 2011; and
- The Bathurst CBD Car Parking Strategy 2013.

1.6 When Contributions are to be Paid

Council will impose conditions of consent requiring payment of contributions:

- a) In the case of developments resulting in a contribution payable owing to deficit onsite car parking spaces – prior to the release of a Construction Certificate.

1.7 Construction Certificates and Complying Development Certificates and the Obligations of Accredited Certifiers

Construction Certificates

In accordance with section 94EC of the Environmental Planning and Assessment Act and Clause 146 of the Environmental Planning and Assessment Regulation 2000, a certifying authority must not issue a **construction certificate** for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that 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 Environmental Planning and Assessment Regulation 2000. Failure to follow this procedure may render such a certificate invalid.

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

Complying Development Certificates

In accordance with Section 94EC(1) of the Environmental Planning and Assessment Act accredited certifiers must impose a condition requiring monetary contributions in accordance with this Contributions Plan for applicable development types.

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

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

1.8 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 Section 94 contribution rates 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 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 rates for the current financial year are published by Council in its annual Management Plan and are available from Council offices.

1.9 Exemptions

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

1.10 Council's acceptance of deficit onsite carparking

Council may, in certain circumstances, accept an offer by the applicant not to provide onsite car parking in accordance with the relevant DCP standard.

An offer for Council to accept a deficit in onsite car parking is to be made in writing to Council and should clearly state:

- What deficit of onsite car parking is proposed; and
- Why Council should support a cash contribution in lieu of providing the car parking spaces onsite in accordance with this Plan.

Council is under no obligation to accept a monetary contribution in lieu of a development providing the required car parking onsite in accordance with the relevant DCP.

1.11 Planning Agreements

Council may seek to negotiate planning agreements for major developments in accordance with s93F of the EP&A Act.

1.12 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.

1.13 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.

1.14 ADMINISTRATION OF THE PLAN

1.14.1 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: URBAN CHARACTERISTICS AND POPULATION

2.0 Urban Characteristics

2.1 Retail floor area

The Bathurst CBD & Bulky Goods Development Strategy 2011 identified that Bathurst could support a further 11,000m² GLA (retail) and 6,140m² GLA (office) within the Bathurst CBD up to the year 2025. The additional floor space will create an additional demand for car parking. The Bathurst CBD Car Parking Strategy 2013 identifies that to support the retail floor space within the Bathurst CBD where new development must provide car parking spaces at the rate specified in the Bathurst Regional (Interim) DCP 2011.

3.0 Plan Objectives

This Plan aims to:

- a) provide a mechanism whereby Council can levy monetary contributions towards the provision of public car parking (including land acquisition and construction) within the Bathurst CBD in cases where commercial and retail developments cannot provide adequate parking on site or where, in Council's opinion, it would be impracticable or undesirable to provide car parking on site;
- b) allow the accumulation of funds which can be used for the development of properly planned and suitably located parking areas;
- c) apply Section 94 contributions in a manner that is fair, reasonable, publicly accountable and equitable.

Contributions are rounded to the nearest dollar.

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 public facility or service that is caused by the development.

There are three aspects to nexus:

- Causal nexus – the proposed development creates a need or increases the demand for a particular public facility or service;
- Spatial or physical nexus – the proposed public facility or service will be located to serve the needs of those who created the demand for it;
- Temporal nexus – the proposed public facility or service will be provided within a reasonable time to benefit those who contributed towards it.

3.2 Apportionment

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

With respect to this Plan, the provision of the additional car parking spaces and enhancement works identified in the Plan is apportioned to the additional commercial and retail floor space only. The additional retail and commercial floor space will create the additional demand for car parking for both staff and customers.

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 car parking needs of the Bathurst CBD.

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.

4.0 Provision of car parking facilities

A contribution will be payable towards the provision of public car parking spaces within the Bathurst CBD for developments which cannot provided onsite car parking in accordance with the Bathurst Regional DCP.

4.1 Provision of ground level or multi level car park facilities and enhancement of the carpark where onsite carparking is **NOT** provided in accordance with the DCP.

4.1.1 Nexus between Development and Demand

Causal Nexus

Continued retail and commercial growth in the Bathurst CBD will increase usage of the existing public car parks. Commercial developments are expected to provide onsite car parking in accordance with the applicable DCP. In certain circumstances, Council may consider it appropriate for the developer to make a contribution in accordance with this Plan in lieu of providing the required parking. In these circumstances, the car parking required is above any calculated future deficit. Therefore the full construction cost is applicable.

Physical Nexus

Council, in certain circumstances, may consider it appropriate that certain developments, which are unable to provide the required car parking in accordance with the relevant DCP rate, contribute to the provision of those car parking spaces within the Bathurst CBD. In these circumstances, the contribution will be put towards the provision of additional space(s) at the location of a future multi-level carpark, or new ground level carpark within the CBD.

Temporal Nexus

The timing of works will be in accordance with Council's priorities for the provision of public carparking in the Bathurst CBD. The timetable for the completion of the works is subject to change dependent on the rate of development of retail and commercial development in the CBD.

4.1.2 Calculation of Contribution Rates

All rates are determined to the nearest dollar.

The construction cost is based on the following calculation:

Component	Calculation	Contribution/space
Multi level carpark (Ground + 1 level) (Rawlinsons, 2012)	\$13,200/space	\$13,200
Add fire protection sprinklers (Rawlinsons, 2012)	\$81 /m ² 29m ² per space	\$2,349
Add hydrants, hose reels etc (Rawlinsons, 2012)	\$10,000/190	\$53
Country loading (Rawlinsons, 2012)	5%	\$780
TOTAL		\$16,382

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

5.1 Provision of ground level or multi level car park facilities and enhancement of the carpark where onsite carparking is NOT provided in accordance with the DCP.

A schedule of works is unable to be determined at the commencement of this Plan. The required works is dependent on development proposals which are unable to provide onsite car parking spaces. The funds collected under this Plan for this purpose will be expended on providing those car parking facilities as public spaces within the Bathurst CBD.

Whilst a schedule of works is unable to be determined, the contributions collected allow for one of two options to be constructed. Option one is for a multi level carpark located at an existing public carpark. Alternatively option two allows for the purchase of additional land and the construction of a ground level open carpark.

5.2 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 \$163.82/space.

6.0 Contribution Rate

The tables below provides the total contribution based on additional GLA and the contribution payable in lieu of onsite parking spaces.

Rate A	Contribution rate per space <u>not</u> provided onsite
	\$16,382

Rate A will apply to a development proposing additional GLA in Area A and not providing car parking in accordance with the applicable DCP rate for the development.

The rates in the above tables will be adjusted on 1 July annually in accordance with Section 1.11 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:

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- 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.

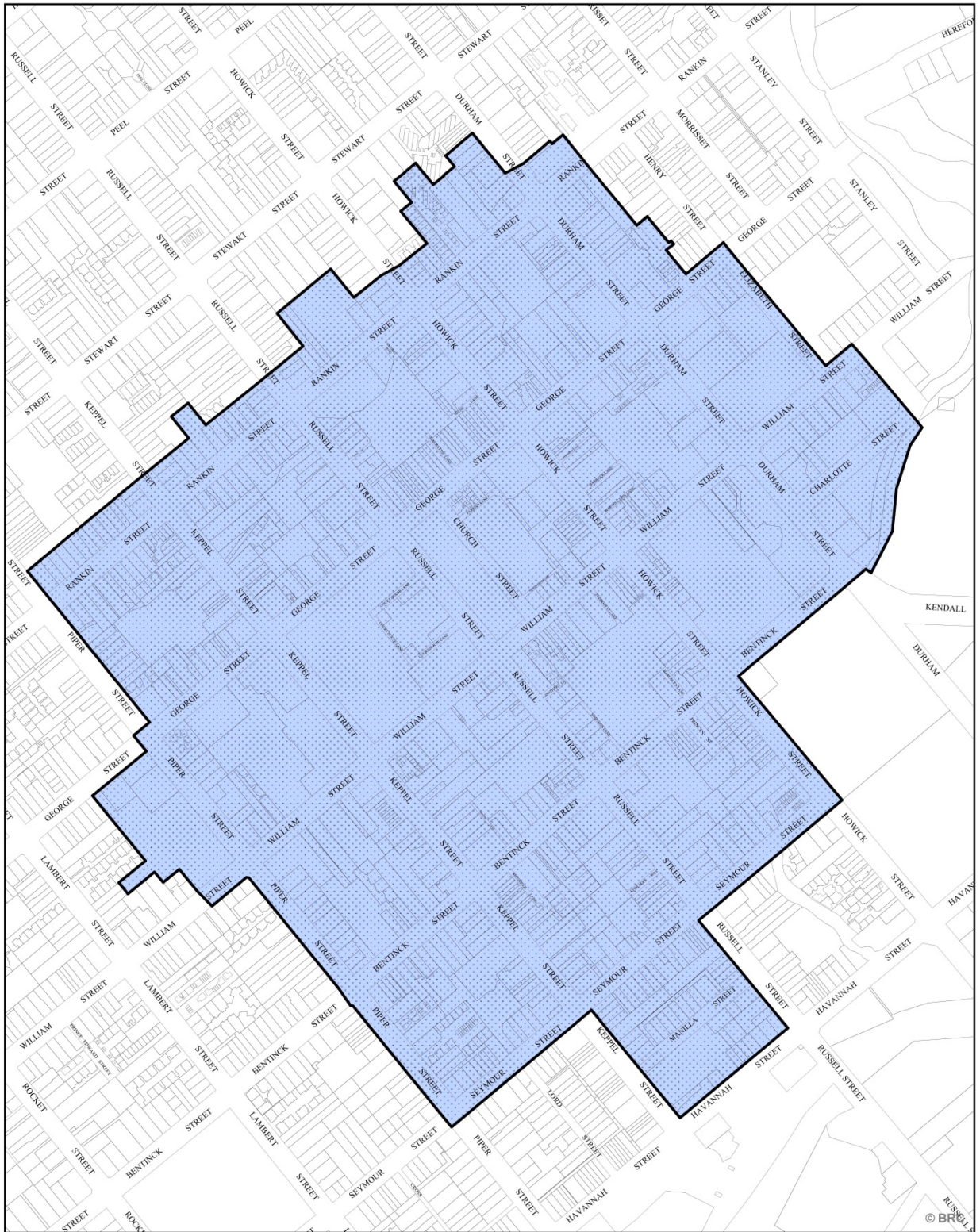
8.0 References:

Bathurst CBD & Bulky Goods Development Strategy, 2011.
www.bathurst.nsw.gov.au/images/stories/council/studies/E7_Bx%20CBD%20Bulky%20Goods%202011_1.pdf Last accessed 13 February 2014

Bathurst CBD Car Parking Strategy, 2013.
www.bathurst.nsw.gov.au/images/stories/development/Policies-Plans/CBD_Car_Parking_Strategy_2013_adopted_15_May_2013.pdf Last accessed 13 February 2014.

Rawlinsons, 2012. Rawlinsons Australian Construction Handbook. Edition 30 2012. Perth, Western Australia.

9.0 Map:



<p>BATHURST REGIONAL COUNCIL Bathurst Regional Council 131 Russell Street Bathurst NSW 2795 Telephone: 02 6335 6111 Facsimile: 02 6331 7211 http://www.bathurstregional.nsw.gov.au</p> <p> NORTH</p>	<p>Important Notice! <small>This map is not a precise survey document. Accurate locations can only be determined by a survey on the ground. Bathurst Regional Council expressly disclaims all liability for errors or omissions of any kind whatsoever, or any loss, damage or other consequence which may arise from any person relying on information comprised in this Plan.</small></p> <p><small>Note: The colours on this Plan do not indicate landuse zones under the Bathurst Regional (Interim) Local Environment Plan 2005.</small></p> <p><small>This map was produced on the GEOCENTRIC DATUM OF AUSTRALIA 1994 (GDA94), which has superseded the Australian Geographic Datum of 1984 (AGD66/84). Heights are referenced to the Australia Height Datum (AHD) heights. For most practical purposes GDA94 coordinates and satellite derived (GPS) coordinates based on the World Geosidic Datum 1984 (WGS84) are the same.</small></p>	<p>Section 94 Developer Contributions Bathurst CBD Car Parking Plan</p> <p>Map Scale: 1:5,000 at A3</p>	<p>Legend</p> <p> Rate A</p>
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