

# Section 94A Development Contributions Plan for Lithgow City Council

October 2015



## PART A SUMMARY SCHEDULES

The following summary schedules are included in this plan:

- Schedule of Works
- Schedule of Levy Rates

The works schedule is detailed in Appendix A to this Plan and identifies the public facilities/services for which Section 94A levies will be required. Schedule 1 below identifies the categories of works included in the works schedule adopted by Council in 2015 and a summary of the expenditure in each of the categories.

Levies paid to Council will be applied towards meeting the cost of provision or augmentation of new public facilities that will be, or have been, provided within the area as listed in the Works Schedule included in Appendix A of this Plan.

### Schedule 1 Categories of new public facilities in the Lithgow Local Government Area to which the Section 94A levy will be applied.

Public Facilities	Total Estimated Costs	Section 94 A Contribution to Cost	Estimated Timeframe
Recreation Facilities	\$ 2,300,000.00	\$ 900,000.00	Completed 23/24
Rural Roads	\$ 4,800,000.00	\$ 1,500,000.00	Completed 24/25
Village Improvements	\$ 240,000.00	\$ 240,000.00	Completed 22/23
Civic Improvements	\$ 3,201,772.00	\$ 300,000.00	Completed 24/25
<b>TOTAL</b>	\$ 10,541,772.00	\$ 2,940,000.00	

### Schedule 2 Summary of Section 94A Levy Rates

Type of Development	Levy (%)
All development types valued at \$100,000 or less	0.0%
All development types valued at \$100,001 and up to \$200,000	0.5%
All development types valued in excess of \$200,000	1%

## PART B EXPECTED DEVELOPMENT AND DEMAND FOR PUBLIC FACILITIES

This part broadly discusses the relationship between the expected types of development and the demand for additional public amenities and services or augmentation of existing amenities and services to meet the needs of the development and the wider community.

The expected types of development within the Lithgow Local Government Area subject to this Plan are, but are not limited to, the following:

Residential Development (All Forms)

Retail Development

Industrial Development

Commercial Development

Tourism Development

Mixed Use Development

Rural Development

The relationship between expected development and the demand of public amenities and services is discussed below.

The Census population of Lithgow City in 2011 was 19,815, living in 9,467 dwellings with an average household size of 2.35. This represents a 2.3% increase in population over the five year period or expressed annually, a 0.46% increase.

There are several available sources of population projections for the Lithgow Local Government Area. All data sources vary due to methodology and context. However all represent a similar projection for a static to declining population projection into the future.

Notwithstanding this, Council has adopted a target annual growth rate of between 0.5% - 1% as part of its Draft Land Use Strategy 2010-2031. This, if achieved would see the LGA population grow to around 25,000 by the year 2031. This target is supported by the strategies and actions outlined in the adopted Economic Development Strategy 2010-2014 and Draft Land Use Strategy 2010-2031.

It is not only population growth that impacts on the demand for amenities and services. The geographical distribution of new development, changing community needs and expectation of both the existing and new community, as well as changes to the population profile, are also significant factors.

The population is rapidly aging. Premature aging caused by migration related loss of young people and/or migration gain in older age groups combined with general population aging contribute to the age structure projection.

New development as well as the likely age of that population supported by that development has the potential to increase the demand for new and improved public amenities and services and potentially to diminish the enjoyment and standards of public facilities for the existing population. Therefore it is considered reasonable that new development contribute to the sustained and ongoing investment in the provision, extension and augmentation of infrastructure and services identified by the community through the Lithgow Community Strategic Plan.

Funds collected under this Plan will contribute to a proportion of the costs of some of these facilities and services as detailed in the Works Schedule, the remainder of which will be funded by Council's Operation /Delivery and Long Term Financial Plan process or other funding opportunities such as grant funding in order to achieve the priorities identified in the Lithgow Community Strategic Plan.

## **PART C ADMINISTRATION AND OPERATION OF THE PLAN**

### **C1 What is the name of this development contributions plan?**

This development contributions plan is called Lithgow City Section 94A Development Contributions Plan 2015.

### **C2 Where does this plan apply?**

This plan applies to all land within the Lithgow City Council Local Government Area as shown in Map 1 Appendix B.

### **C3 When does this development contributions plan commence?**

This contributions plan commences on 26/10/2015

### **C4 Development to which this plan applies**

This Plan applies to development that requires development consent or complying development certificate under the *Environmental Planning and Assessment Act 1979* (the Act).

### **C5 Repeal of other contributions plans applying to the land**

On its commencement, this plan repeals Lithgow City Council Section 94A Development Contributions Plan 2012.

### **C6 What is the purpose of the development contributions plan?**

The primary purposes of this contributions plan are:

- To authorise the imposition of a condition on development consents and complying development certificates requiring the payment of a contribution pursuant to Section 94A of the Environmental Planning and Assessment Act, 1979.
- To require an accredited private certifier to impose, as a condition of issuing a complying certificate, a requirement that the applicant pay to Council a levy determined in accordance with this Plan.

- 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.

## **C7 Are there any exemptions to the levy?**

### **Development exempted by Ministerial direction**

Under the provisions of Section 94E of the Act the Minister for Planning has the power to direct councils regarding the type of development that can be required to pay a contribution (or not) and the amount of contribution to be levied.

The relevant Section 94E Ministerial Direction as issued from time to time will apply. The current S.94E Direction dated 14 April 2016 is provided as Appendix D.

### **Other development exempted from the levy**

The following types of development or components of development will also be exempted from a levy under this Plan:

- a) Development by or on behalf of Lithgow City Council;
- b) Development by or on behalf of NSW Government for public infrastructure such as hospitals, police stations, fire stations, education facilities and public transport infrastructure;
- c) Development that involves rebuilding or repair after natural disasters such as flooding or bushfires;
- d) Development involving alterations and additions to an existing single dwelling;
- e) Development involving the demolition of an existing dwelling;
- f) Development involving the rebuilding of an existing dwelling;
- g) An application for an industrial, retail or commercial development where there is no intensification of use or increase in floor space of an existing building.

## **C8 Pooling of levies and unspent Section 94 funds?**

This plan expressly authorises Section 94A levies paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies will be determined through integration with Council's Community Strategic Plan and Operation/Delivery Program.

This Plan also expressly authorises that unspent monies collected through previous Section 94 plans is to be expended on works identified in the works schedule included in Appendix A of this Plan.

## **C9 Construction Certificates and the obligation of accredited certifiers**

In accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000, a certifying authority (Council or an accredited private certifier) 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 Council in accordance with Clause 142(2) of the EP& A Regulation. Failure to follow this procedure may render such a certificate invalid.

## **C10 Complying Development Certificates and the obligation of accredited certifiers**

Applications for complying development are also subject to the provisions of this plan, and the payment of a Section 94A levy.

This plan requires a certifying authority (the Council or an accredited private certifier) to impose a condition on a complying development certificate requiring an applicant for a complying development to pay the Council a levy as determined by Schedule 2 of this Plan.

## **C11 How will the levy be calculated?**

The levy will be determined on the basis of the rate as set out in Summary Schedule 2. The levy will be calculated as follows:

$$\text{Levy payable} = \%C \times \$C$$

Where

- **%C** is the levy rate applicable
- **\$C** is the proposed cost of carrying out the development as certified.

The proposed cost of carrying out the development will be determined in accordance with Clause 25J of the Environmental Planning and Assessment Regulation. The procedures set out in Appendix C to this Plan must be followed to enable Council to determine the amount of levy to be paid.

The value of works must be provided by the applicant at the time of submitting the application and if the quantum of works exceeds \$1,000,000.00 be independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

Without limitation to the above, Council may review the valuation or works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant and no construction certificate will be issued until such time that the levy has been paid.

## C12 When is the levy payable?

A levy must be paid to Lithgow City Council at the time specified in the condition that imposes the levy. If no such time is specified, the levy must be paid prior to the release of the construction certificate or in the case of a complying development certificate prior to any work authorised by the certificate commences.

## C13 How will the levy be adjusted?

In accordance with Clause 25J (4) of the Regulation and, for the purposes of this Plan, the proposed cost of carrying out development is to be indexed to reflect quarterly variation in the Consumer Price Index, All Group Index Number for Sydney between the date the proposed cost was determined by Council/ Private Certifier (i.e. date of receipt of the application) and the date the levy is paid.

The formula governing indexation of the proposed cost of carrying out development is as follows:

$$IDC = ODC \times CP2/CP1$$

Where:

- IDC** = the indexed development cost
- ODC** = the original development cost determine by the Council/Private Certifier
- CP2** = the Consumer Price Index, All Groups, Sydney, as published by the ABS in respect of the quarter ending immediately prior to the date of payment
- CP1** = the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition requiring payment of the levy.

**NOTE:** In the event that the current CP2 is less than the previous CP1, the current CP2 shall be taken as not less than the previous CP1.

## C14 Can deferred or periodic payments be made?

Council will not consider the deferment or periodic payment of the levy applicable under this Plan unless it is part of a staged development consent in which case the requirement for payment of the levy will be set out in the relevant conditions of consent for each approved stage of development.



## **C15 Are there alternatives to the payment of the levy?**

For circumstances in which a Section 94A levy is payable under this Plan, Council will consider varying this requirement in the following circumstances:

- Where Council agrees to negotiate a Voluntary Planning Agreement (VPA) with the applicant and where that agreement is successfully completed. It should be noted that Council would normally only consider entering into a VPA in lieu of a Section 94A contribution where the terms of the VPA would provide a greater monetary contribution than the Section 94A Contributions Plan;
- Where Council agrees to the preparation of a site specific Section 94 Contributions Plan to apply to the development that would otherwise be subject to the levy and where that plan is successfully completed.

## **C16 Refunds**

It is the position of Council that there are generally no refunds of Section 94A levy payments made under this Plan. Council may however consider giving a refund in the case of surrendered development consents.

## **C17 Plan Review and Monitoring**

This Plan may be reviewed and/or amended if the works identified to be funded by this plan are revised.

Review, amendment and updating of this Plan (except for the types of amendments specified in Clause 32(3) of the Environmental Planning and Assessment Regulation) will require preparation and public exhibition of a new contributions plan.

## APPENDIX A DETAILED WORKS SCHEDULE

Project Description		Total Estimated Project Cost	Section 94 A Contribution	Other Funding Contribution	Estimated Timing for Expenditure#	Pooling Priority
<b>Rural Roads</b>						
<b>Rural Roads</b>						As per Operation /Delivery Program
Wattlemount Road		\$500,000	\$140,000	\$360,000	2015/2016 2016/2017	
Hartley Valley Road		\$320,000	\$160,000	\$160,000	2015/2016 2016/2017	
Cullenbenbong Road		\$300,000	\$150,000	\$150,000	2017/2018	
Glen Alice Road		\$300,000	\$150,000	\$150,000	2018/2019	
Curly Dick Road		\$200,000	\$150,000	\$50,000	2019/2020	
Thompsons Creek Road		\$200,000	\$150,000	\$50,000	2020/2021	
Mt Horrible Road		\$200,000	\$150,000	\$50,000	2021/2022	
Ganbenang Road		\$200,000	\$150,000	\$50,000	2022/2023	
Fields Road		\$200,000	\$150,000	\$50,000	2023/2024	
Hartley Vale Road		\$200,000	\$150,000	\$50,000	2024/2025	
<b>Recreation Facilities</b>						
Lithgow Aquatic Centre Re-Development Stage 4		\$2,300,000	\$1,000,000	\$1,300,000*	2015/2016 to 2023/2024	As per Operation / Delivery Program
<b>Civic, Community and Village Improvements</b>						
CBD Revitalisation Program		\$3,200,000	\$200,000	\$3,000,000	2015/2016 to 2016/2017	As per Operation /Delivery

Project Description		Total Estimated Project Cost	Section 94 A Contribution	Other Funding Contribution	Estimated Timing for Expenditure#	Pooling Priority Program
CCTV Cameras Program Lithgow CBD Camera Upgrades		\$160,000	\$160,000	Nil	2015/2016 to 2024/2025	As per Operation /Delivery Program
Village Improvement Program		\$240,000	\$240,000	Nil	2015/2016 to 2022/2023	As per Operation /Delivery Program

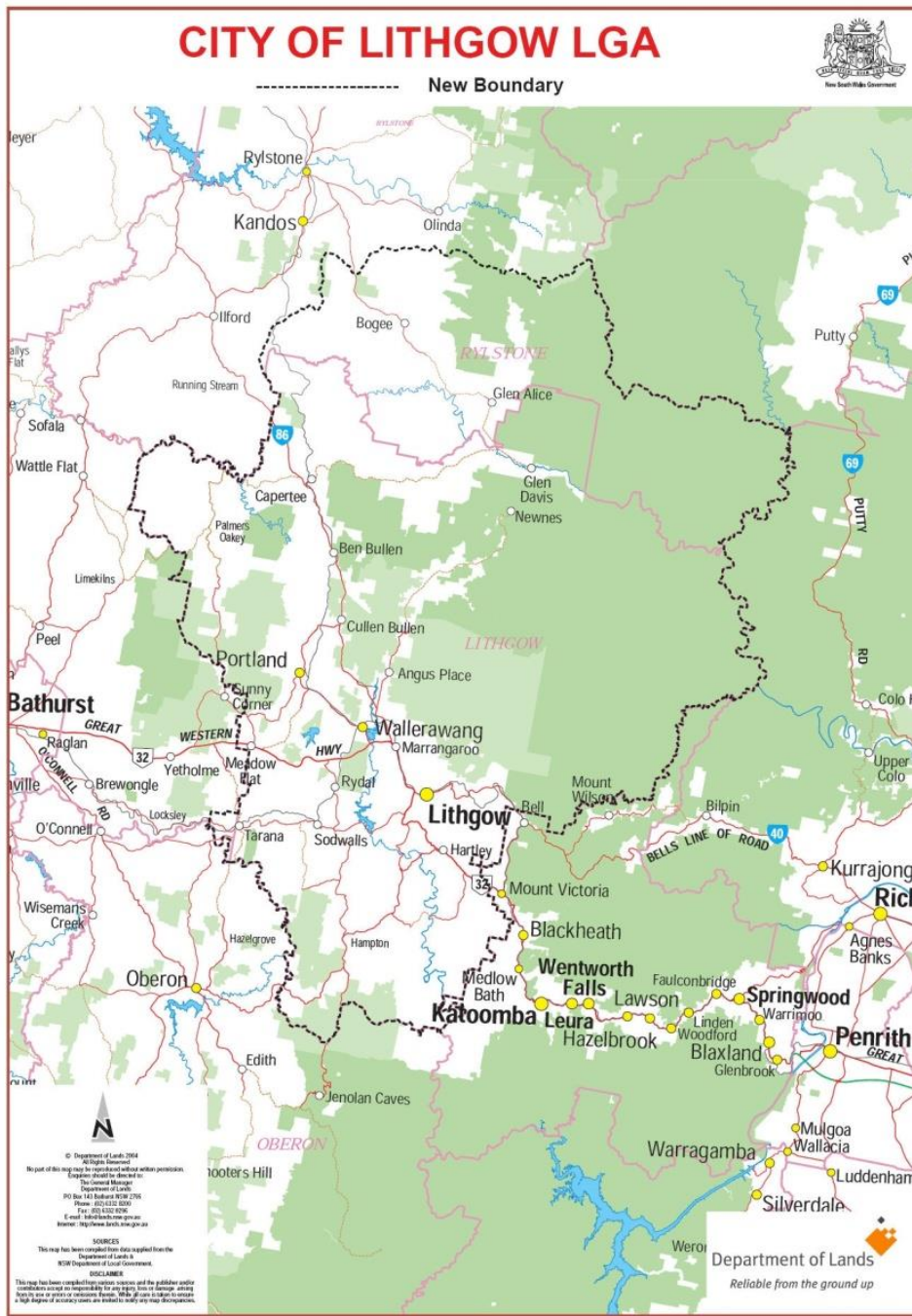
**Notes to Schedule**

#This relates to the expenditure of Section 94A funds. This is an estimate only and may be altered during the 10 year period of the plan through the Operation Plan/Delivery Program process

\*100,000 also funded from Section 94A in 2014/2015

# APPENDIX B LAND TO WHICH PLAN APPLIES

This Plan applies to the whole of the Lithgow City Local Government Area as shown by broken black lines on the map below.



## APPENDIX C PROCEDURE FOR ESTABLISHING COSTS

A cost summary report is required to be submitted to allow Council to determine the contribution that will be required. The following should be provided:

A cost summary report in accordance with Schedule 3 must be completed by a suitably qualified person for works with a value less than \$1,000,000.

A Quantity Surveyor's Detailed Cost Report in accordance with Schedule 4 must be completed by a registered Quantity Surveyor for works with a greater value than \$1,000,000.

To avoid doubt, Section 25J of the Environmental Planning and Assessment Regulation sets out the matters that should be included in the estimation of construction costs 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:

- 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, the carrying out the work, including costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation.
- 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.
- 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.

Section 25J (3) of the Regulation also specifies the matters that do not need to be taken into account when determining the cost.

## Schedule 3 – Cost Summary Report For Development Cost Less Than \$1,000,000

Development Application No \_\_\_\_\_ Reference \_\_\_\_\_

Complying Certificate Application No \_\_\_\_\_

Construction Certificate No \_\_\_\_\_ Date \_\_\_\_\_

**APPLICANT NAME:**

---

**APPLICANT ADDRESS:**

---

**DEVELOPMENT NAME:**

---

**DEVELOPMENT ADDRESS:**

---

**ANALYSIS OF DEVELOPMENT COSTS:**

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor finishes	\$	External services	\$
Ceiling finishes	\$	Other related works	\$
Fittings and Equipment	\$	<b>SUB-TOTAL</b>	<b>\$</b>

Sub total carried forward	\$
Preliminaries and margins	\$
<b>SUB-TOTAL</b>	<b>\$</b>
Consultant Fees	
Other related development costs	
<b>SUB-TOTAL</b>	<b>\$</b>
Goods and services tax	\$
<b>TOTAL DEVELOPMENT COSTS</b>	<b>\$</b>

## Schedule 3 – Cost Summary Report For Development Cost Less Than \$1,000,000

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 Environmental Planning and Assessment Regulation 2000 at current prices
- included GST in the calculation of development cost.

**Signed:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Position and  
Qualifications:** \_\_\_\_\_

**Membership No:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Schedule 4 – Registered\* Quantity Surveyor’s Detailed Cost Report for Developments In Excess of \$1,000,000.00

\*A member of the Australian Institute of Quantity Surveyors

Development Application No \_\_\_\_\_ Reference \_\_\_\_\_

Complying Certificate Application No \_\_\_\_\_

Construction Certificate No \_\_\_\_\_ Date \_\_\_\_\_

APPLICANT NAME: \_\_\_\_\_

APPLICANT ADDRESS: \_\_\_\_\_

DEVELOPMENT NAME: \_\_\_\_\_

DEVELOPMENT ADDRESS: \_\_\_\_\_

**DEVELOPMENT DETAILS:**

Gross Floor Area - Commercial	m <sup>2</sup>	Gross Floor Area – Other	m <sup>2</sup>
Gross Floor Area - Residential	m <sup>2</sup>	Total Gross Floor Area	m <sup>2</sup>
Gross Floor Area – Retail	m <sup>2</sup>	Total Site Area	m <sup>2</sup>
Gross Floor Area – Car Parking	m <sup>2</sup>	Total Car Parking Spaces	
<b>TOTAL DEVELOPMENT COST</b>	<b>\$</b>		
<b>TOTAL CONSTRUCTION COST</b>	<b>\$</b>		
<b>TOTAL GST</b>	<b>\$</b>		

**ESTIMATE DETAILS:**

<b>Professional Fess</b>	<b>\$</b>	<b>Excavation</b>	<b>\$</b>
% Development Costs	%	Cost per square metre of site area	\$ /m <sup>2</sup>
% Construction Costs	%	<b>Car Park</b>	<b>\$</b>
<b>Demolition and Site Preparation</b>	<b>\$</b>	Cost per square metre of site area	\$ /m <sup>2</sup>
Cost per square metre of site area	\$ /m <sup>2</sup>	Cost per space	\$ /space
<b>Construction - Commercial</b>	<b>\$</b>	<b>Fit- out - Commercial</b>	<b>\$</b>
Cost per square metre of commercial area	\$ /m <sup>2</sup>	Cost per square metre of commercial area	\$
<b>Construction - Residential</b>	<b>\$</b>	<b>Fit- out - Residential</b>	<b>\$</b>
Cost per square metre of residential area	\$ /m <sup>2</sup>	Cost per square metre of residential area	\$ /m <sup>2</sup>
<b>Construction - Retail</b>	<b>\$</b>	<b>Fit- out - Retail</b>	<b>\$</b>
Cost per square metre of retail area	\$ /m <sup>2</sup>	Cost per square metre of retail area	\$ /m <sup>2</sup>



## Schedule 4 – Registered\* Quantity Surveyor's Detailed Cost Report for Developments In Excess of \$1,000,000.00

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 Coast Management Manuals from the Australian Institute of Quantity Surveyors.
- Calculated the development costs in accordance with the definition of development costs in Clause 25J of the Environmental Planning and Assessment Regulation 2000 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:** \_\_\_\_\_

**Membership No:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# APPENDIX D SECTION 94 E MINISTERIAL DIRECTION APRIL 2016

## Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 94E of the *Environmental Planning and Assessment Act 1979*, give the following Direction.



Minister for Planning

Dated: 14<sup>th</sup> April, 2016

### 1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Local Infrastructure Levies) Direction 2015*.

### 2 When Direction takes effect

This Direction takes effect on and from its date of publication in the Gazette.

### 3 Consent authorities to which Direction is given

- (1) This Direction is given to all consent authorities.
- (2) This Direction also applies to any joint regional planning panel when exercising consent authority functions of one or more councils.

### 4 Prohibition on levy where s 94 contribution required

If a development contribution under section 94 of the *Environmental Planning and Assessment Act 1979* has been required in respect of the subdivision of land (*initial subdivision*), a levy under section 94A of that Act may not be required in respect of any other development on the land, unless that other development will, or is likely to, increase the demand for public amenities or public services beyond the increase in demand attributable to the initial subdivision.

### 5 Revocation of existing Directions in respect of local infrastructure contributions

The following directions under section 94E of the *Environmental Planning and Assessment Act 1979* are revoked:

- (a) the direction that was given by the then Minister for Planning, the Honourable Frank Sartor, M.P., and dated 10 November 2006 (*2006 Direction*), in relation to levies under section 94A of the Act,
- (b) the direction given by the then Minister for Planning, the Honourable Kristina Keneally, M.P., and dated 9 September 2009, in relation to levies under section 94A, and other local infrastructure contributions under section 94, of the Act for projects carried out under the Building Education Revolution program.

#### **6 Savings provision**

This Direction does not affect the operation of any condition of development consent that was imposed in relation to the subdivision of land as referred to in clause 2 (e) of the 2006 Direction.

**Note.**  
Section 94EC (1A) of the *Environmental Planning and Assessment Act 1979* provides as follows:

The imposition of a condition by an accredited certifier as authorised by a contributions plan is subject to compliance with any directions given under section 94E (1) (a), (b) or (d) with which a council would be required to comply if issuing the complying development certificate concerned.

---

## APPENDIX E DOCUMENT CONTROL

**Table 1 Plan Amendments**

Revision Number	Date	Nature of Revision
Draft Version	June 2015	Sundry amendments to Lithgow City Section 94 A Development Contributions Plan July 2012
Draft Exhibition Version	June 2015	
Adopted Version	26 October 2015	
Minor Amendment 1	December 2016	Legislative Amendment not requiring exhibition.  C7 – Amendment to reflect new S.94E Direction dated 14 April 2016.  Insertion of Appendix D - S.94E Direction dated 14 April 2016.  Appendix Re-Referencing

**Note:** This table does not form part of this Plan. It is provided to assist with interpretation and will be amended from time to time as this Plan is amended.