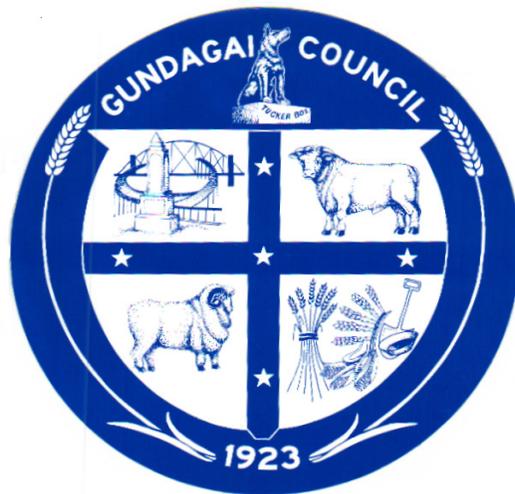


# Gundagai Shire Council

## S.94A Development Contributions Plan 2006



**Prepared by Gundagai Shire Council**

**Adopted: 22 March 2006**

**Effective: 27 March 2006**

**Amended: 13 March 2007**

This plan has been prepared in accordance with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

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## **Gundagai Shire Council S.94A Development Contributions Plan 2006**

### **PART 1 ADMINISTRATION AND OPERATION**

#### **1 What is the name of this plan?**

This plan is called *Gundagai Shire Council S.94A Development Contributions Plan 2006*.

#### **2 When does this plan commence?**

This plan commences on 27 March 2006.

#### **3 Purposes of this plan**

The purposes of this plan are:

- to authorize the Council to impose, as a condition of development consent, a requirement that the applicant pay to the Council a levy determined in accordance with this plan,
- to require a certifying authority (the Council or an accredited certifier) to impose, as a condition of issuing a complying development certificate or a construction certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this plan, and
- to govern the application of money paid to the Council under condition authorized by this plan.

#### **4 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.

**5 Land to which this plan applies**

This plan applies to all land within the Gundagai local government area.

**6 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.

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

This plan authorizes 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 related to of the proposed cost of carrying out the development as set out in Table 1 below:

Table 1

Cost of Development	Levy Percentage Payable
Up to \$100,000.00	NIL
\$100,001 - \$200,000.00	0.5 per cent
More than \$200,000.00	1.0 per cent

**7A Exemption to Levy Payments**

Other than those levies payable under Section 7 above the following exemption apply to levy payments:

- a) developments for the purpose of disabled access,
- b) developments for the sole purpose of affordable housing,
- c) developments for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
- d) developments for the sole purpose of the adaptive reuse of an item of environmental heritage, or
- e) developments 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.

**8 Certifying authority must require payment of the levy as a condition of issuing a complying development certificate or a construction certificate**

This plan requires a certifying authority (the Council or an accredited certifier) to require applicants for a complying development certificate or a construction certificate to pay the Council a levy of 1% of the proposed cost of carrying out the development prior to issue of the certificate.

**9 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:

**“ 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) For the purpose of determining the proposed cost of carrying out development a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.
- (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."

**10 Cost estimate reports must accompany an application for a complying development certificate or a construction certificate**

An application for a complying development certificate or a construction 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 \$500,000 - a cost summary report in accordance with Schedule 2, or alternatively in a form acceptable to Council;
- where the estimate of the proposed cost of carrying out the development is \$500,000 or more - a detailed cost report in accordance with Schedule 3.

**11 Who may provide a report for the purposes of clause 11 of this plan?**

For the purpose of clause 25J(2) of the Regulation, 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 \$500,000 a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report;
- where the proposed development cost is \$500,000 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 11.

**12 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 1.

The locations of those facilities are shown on the map accompanying this plan (see Schedule 1).

**13 Are there priorities for the expenditure of money obtained 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 1 are to be provided at the discretion of Council within that Schedule.

**14 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 1 in accordance with the staging set out in that Schedule.

**15 Obligation of certifying authorities**

Pursuant to clause 146 of the Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it is satisfied of compliance with each condition requiring the payment of a levy before work is carried out in accordance with the consent.

The certifying authority must cause the applicant's receipt for payment of the levy to be provided to the Council at the same time as the other documents required to be provided under clause 142(2) of the EP&A Regulation.

**16 When is the levy payable?**

A levy required 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 prior to the first certificate issued in respect of the development under Part 4A of the Act.

**17 What is the Council's policy on the deferred or periodic payment of levies?**

The Council does not allow deferred or periodic payment of levies authorised by this plan.

**18 Are there alternatives to payment of the levy?**

If an applicant for development consent seeks to make a development contribution towards the provision of public facilities to meet development impact other than by payment of a levy, the applicant may adopt one of the following procedures:

- ***Offer made to the Council as part of a development application***

If an applicant does not wish to pay a levy in connection with the carrying out of development, the applicant may include in the relevant development application an offer to carry out works or provide a material public benefit towards which the levy was to be applied.

The Council will consider the offer as part of its assessment of the development application. If the Council agrees to the arrangement and grants consent to the application, it will substitute a condition of consent under s80A of the Act requiring the works to be carried out or the material public benefit to be provided for a condition requiring payment of a levy under s94A. If the Council does not agree to the alternative arrangement, it may grant consent subject to a condition authorized by this plan requiring payment of a levy.

In assessing the applicant's offer, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the land so dedicated or the material public benefit is of equal or greater value than the monetary contribution that would otherwise be required, and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards

and then transferred to Council.

- ***Offer made to Council following the grant of development consent requiring payment of a levy***

If development consent has been granted to the carrying out of development subject to a condition authorized by this plan to pay a levy, the applicant must comply with the condition unless it is modified under s96 of the Act.

If the applicant does not wish to pay the levy, the applicant may make an application to the Council under s96 of the Act to modify the consent by substituting for the condition requiring payment of the levy a condition requiring the carrying out of works or the provision of a material public benefit towards the public purpose to which the levy was to be applied.

If the Council approves the application, the applicant will be bound by the substituted condition. If the Council does not approve the application, the applicant will remain bound by the condition authorized by this plan requiring payment of the levy.

In assessing the s96 application, the Council will have regard to the requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* (DIPNR 2005) and may consider matters such as, but not limited to, the following:

- Council must be satisfied that the land so dedicated or the material public benefit is of equal or greater value than the monetary contribution that would otherwise be required, and
- In situations where the material public benefits that are proposed involve works-in-kind, Council will only accept such an offer where the works are constructed by the developer to Council's standards and then transferred to Council.

- ***Offer to enter into a voluntary planning agreement***

If an applicant does not wish to pay a levy in connection with the carrying out of development, the applicant may offer to enter into a voluntary planning agreement with the Council under s93F of the Act in connection with the making of a development application.

Under the planning agreement, the applicant may offer to pay money, dedicate land, carry out works, or provide other material public benefits for public purposes. Those purposes need not relate to the impacts of the applicant's development nor to the items listed in Schedule 1.

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 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.

## 19 What definitions apply?

In this Plan unless the context or subject matter otherwise indicates or requires:

**ABS** means the Australian Bureau of Statistics,

**Act** means the *Environmental Planning and Assessment Act 1979*,

**Council** means Gundagai Shire Council,

**Levy** means a levy under s94A 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*.

## 20 Amendments to this Plan

- i) December 2006: Amended to comply with Ministerial Direction under Section 94E (levies payable).

## **PART 2 EXPECTED TYPES OF DEVELOPMENT IN THE COUNCIL'S AREA AND THE DEMAND FOR PUBLIC FACILITIES TO BE FUNDED BY THE LEVY**

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.

The Council is currently preparing its first Local Environmental Plan (L.E.P.) which will identify areas of expected growth and development and confirm the need for community facilities and services.

The expected types of development are, but not limited to:

- Residential Flat Buildings
- Mixed Use Development
- Dual Occupancies
- Villas
- Townhouses
- Subdivisions
- Detached dwellings.
- Alterations and additions
- Minor Structures, e.g. Pergolas, garages
- Domestic Swimming Pools
- Commercial Development
- Industrial Development
- Rural Development
- Change of Use
- Signage

The above development are expected to generate demand for facilities and services detailed in Schedule 1.

## **SCHEDULE 1**

(Clause 13)

### **Works Schedule**

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

#### **A. Completed Works**

<b>Public Facility</b>	<b>Expenditure (since 2000)</b>
Gundagai Medical Centre	\$ 626,000
Rural Transaction Centre/Library (to reimburse Employees Leave Entitlement & Tourism Reserves)	\$1,015,000

**(Schedule 1 continued)**

**B. Works in Progress**

<b>Public Facility</b>	<b>Council Expenditure (2000–2006)</b>	<b>Total Project Cost</b>
Pedestrian Cycleway	\$ 340,000	\$ 550,000
Pedestrian Access Mobility Plan	\$ 150,000	\$ 650,000
Swimming Pool Upgrade	\$ 60,000	\$ 180,000
Road Safety Officer	\$ 30,000	\$ 60,000
Jones Creek Pedestrian Crossing	\$ 50,000	\$ 50,000
Pedestrian Footpath Network	\$ 110,000	\$ 300,000

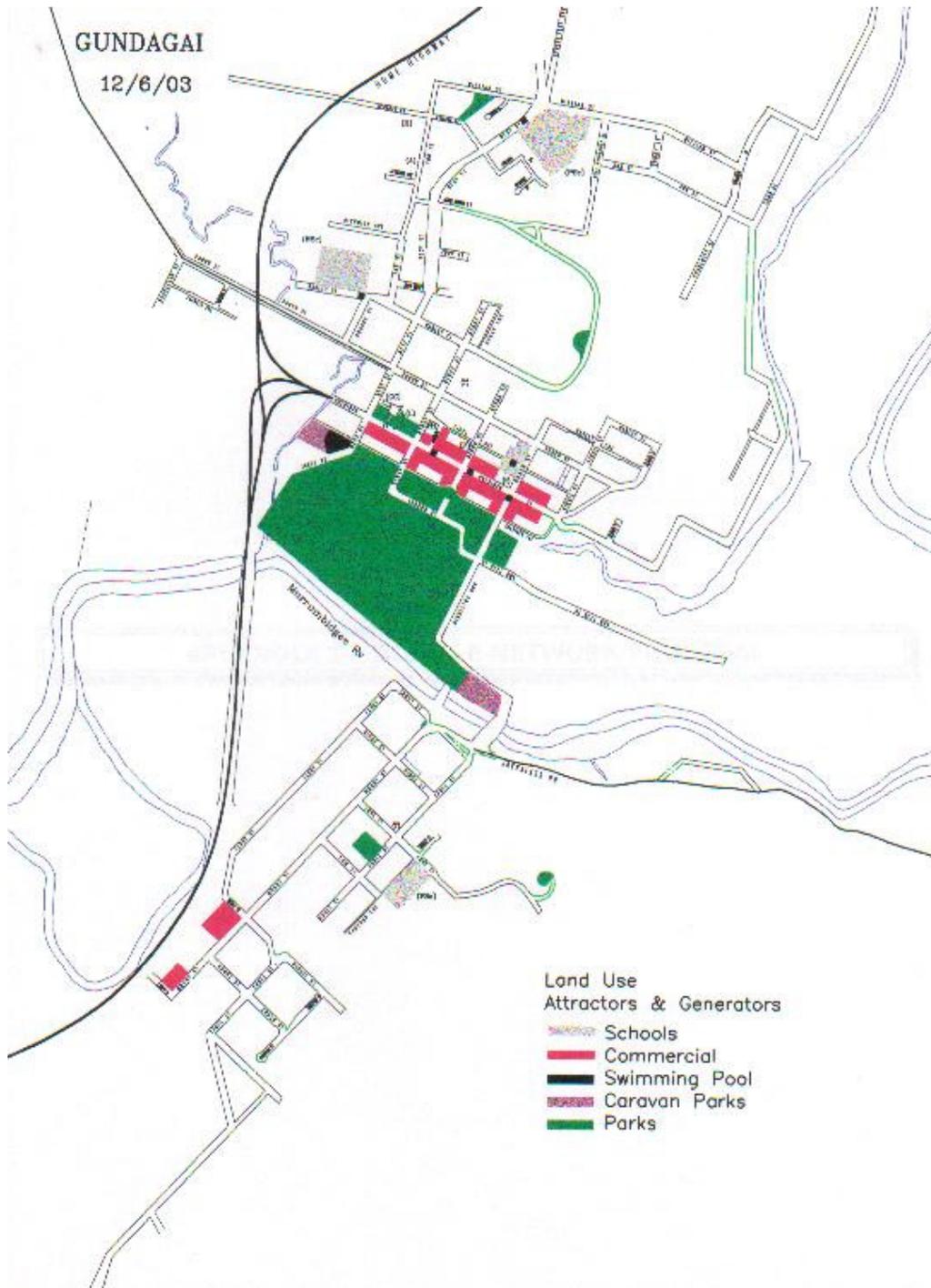
**(Schedule 1 continued)****C. New Works**

<b>Public Facility</b>	<b>Estimated Project Cost</b>	<b>Estimated Staging</b>
Carberry Park Upgrade & watering	\$ 50,000	4 years
Sheridan Street Upgrade		
- Stage 1	\$ 1.5m	5 years
- Stage 2	\$ 1.5m	10 years
- Stage 3	\$ 1.5m	15 years
Gundagai Gaol Heritage Plan	\$ 60,000	5 years
Lighting Middleton Drive Walkway	\$ 90,000	6 years
Upgrade Bush Fire Tankers	\$ 80,000	Annually
S.E.S. Rescue Unit	\$ 100,000	5 years
Water Supply Augmentation	\$ 1.5m	10 years
Sewer Augmentation	\$ 1.5m	10 years

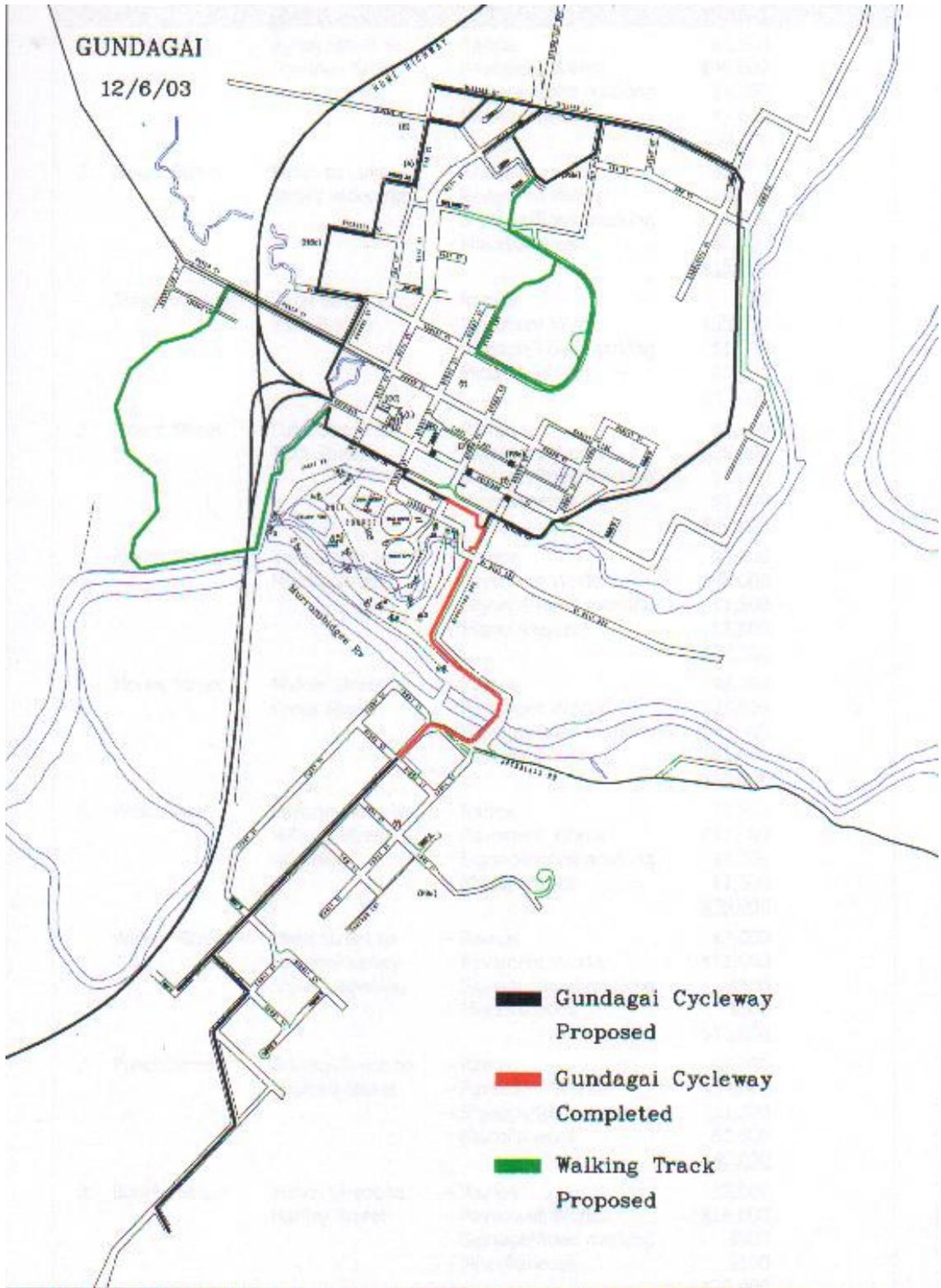
MAPS TO BE INCLUDED TO SHOW LOCATION OF WORKS

---- REQUIRED BY REGS ----

**Figure 1 – Town Map**



**Figure 2 – Bicycle Network Proposal**



## **SCHEDULE 2**

(Clause 11)

### **COST SUMMARY REPORT** (Development Costs less than \$500,000)

**Cost Summary Report  
(Development cost less than \$500,000)**

**Development Application no.** ..... **Date:** .....

**APPLICANT'S NAME** .....

**APPLICANT'S ADDRESS** .....

.....

.....

**DEVELOPMENT NAME** .....

**DEVELOPMENT ADDRESS** .....

.....

**ANALYSIS OF DEVELOPMENT COST**

**\$**

Demolition and Alterations	.....
Structure	.....
External Walls, Windows and Doors	.....
Internal Walls, Screens and Doors	.....
Wall Finishes	.....
Floor Finishes	.....
Ceiling Finishes	.....
Fittings and Equipment	.....
Hydraulic Services	.....
Mechanical Services	.....
Fire Services	.....
Electrical Services	.....
Lift Services	.....
External Works	.....
External Services	.....
Other Related Work	-----
Consultant Fees	.....
Other Related Development costs	-----
Goods and Services Tax	-----
<b>TOTAL DEVELOPMENT COST</b>	<b>\$ -----</b>

I certify that I have:

- Inspected the plans the subject of the application for development consent.
- 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 & Qualifications:** .....

**Date:** .....

## **SCHEDULE 3**

(Clause 11)

### **DETAILED COST REPORT**

(Development Costs of \$500,000 or more)

**Registered\* Quantity Surveyor's Detailed Cost Report**  
**[Development cost of \$500,000 OR more]**

\* A member of the Australian Institute of Quantity Surveyors

DEVELOPMENT APPLICATION No. .... DATE: .....

APPLICANT'S NAME ..... 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> .....
	Total Car Parking Spaces .....
Gross Floor Area -Parking m <sup>2</sup> .....	
TOTAL DEVELOPMENT COST \$ .....	
TOTAL CONSTRUCTION COST \$ .....	
TOTAL GST \$ .....	
TOTAL COST \$ .....	

**ESTIMATE DETAILS:**

PROFESSIONAL FEES	\$ .....	
	% .....	of construction cost
	% .....	of development cost
DEMOLITION & SITE PREPARATION	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of site area
EXCAVATION	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of site area
CONSTRUCTION Commercial	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of commercial area
CONSTRUCTION Residential	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of residential area
CONSTRUCTION Retail	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of retail area
FITOUT Commercial	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of commercial area
FITOUT Residential	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of residential area
FITOUT Retail	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of retail area
CARPARK	\$ .....	total construction cost
	\$ .....	/m <sup>2</sup> of parking area
	\$ .....	per space

I certify that I have:

- Inspected the plans the subject of the application for development consent;
- Prepared and attach 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 clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices;
- Included GST in the calculation of development cost, and
- Measured Gross Floor Areas in accordance with the Method of Measurement of Building Areas in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed: ..... Name: .....

Position & Qualifications: ..... Date: .....