

Harden Contributions Plan for Other Developments



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Prepared by

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Minister's direction dated November 2006 specifying exempted development

Cost summary report

1. Introduction

1.1 Overview of plan

The Shire of Harden is situated adjacent to the ACT and the Riverina Regions of New South Wales. The Shire has a population of 3,500 that mainly reside in small villages including Jugiong, Kingsvale, Galong and Wombat.

Harden Shire Council (Council) is responsible for the provision of a range of public services and amenities to serve the people of the Shire. These facilities include swimming centres, public meeting places, parks and recreational amenities.

Council is likely to continue to determine development applications that will increase the demand for public services and amenities.

This plan authorises that certain development will be required to make contribution (called a Section 94A levy under the *Environmental Planning and Assessment Act 1979* (or EP&A Act)) toward the provision, extension, augmentation and recoupment of cost of public amenities and services in the Shire.

This plan sets out:

- the plan's purpose;
- the land to which the plan applies;
- the relationship between the expected development in the area and the local infrastructure that Council plans to provide;
- the contribution rates applying to development affected by this plan;
- the manner in which a contribution is indexed between the date of Council's determination and the date the contribution is required to be paid;
- the location of the infrastructure proposed to be provided under this plan (by reference to a map) supported by a works schedule setting out an estimate of their cost; and
- the administrative and accounting arrangements applying to contributions that are required by this plan.

This plan has been prepared in accordance with the requirements of the EP&A Act and EP&A Regulation. In preparing the plan the council has had regard to practice notes issued by the NSW Department of Planning in accordance with clause 26(1) of the EP&A Regulation.

1.2 Works and contribution rates schedules

The following summary schedules are included in this plan:

- Works program
- Contribution rates by development type and area

Contributions paid to the Council will be applied towards meeting the cost of provision, extension or augmentation of local infrastructure.

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The works schedule identifies the local infrastructure to be provided for which indirect contributions will be required over the next 5 years, as well as the estimated cost of provision and timing.

Table 1.1 Works schedule

Item No.	Infrastructure category	Estimated cost	Estimated timing	Priority (for funds pooling purposes)
1	Skate Park – Newson Park	\$250,000	2014/2015	1
2	Galong Hall Septic Tank upgrade	\$30,000	2017/2018	2
3	Galong Hall Air-conditioning	\$35,000	2020/2021	3

Table 1.2 Contribution rates schedule

Type of development	Contribution rate
Proposed cost of development is greater than or equal to \$200,000	Nil
Proposed cost of residential development greater than \$350,000 and equal to \$500,000	0.5% of the cost
Proposed cost of non residential development greater than \$200,000 and equal to \$500,000	0.5% of the cost
Proposed cost of development is greater than \$500,000	1.0% of the cost

1.3 Location of works

The location of each item of infrastructure to be provided using Section 94A contributions is shown in Figure 1.

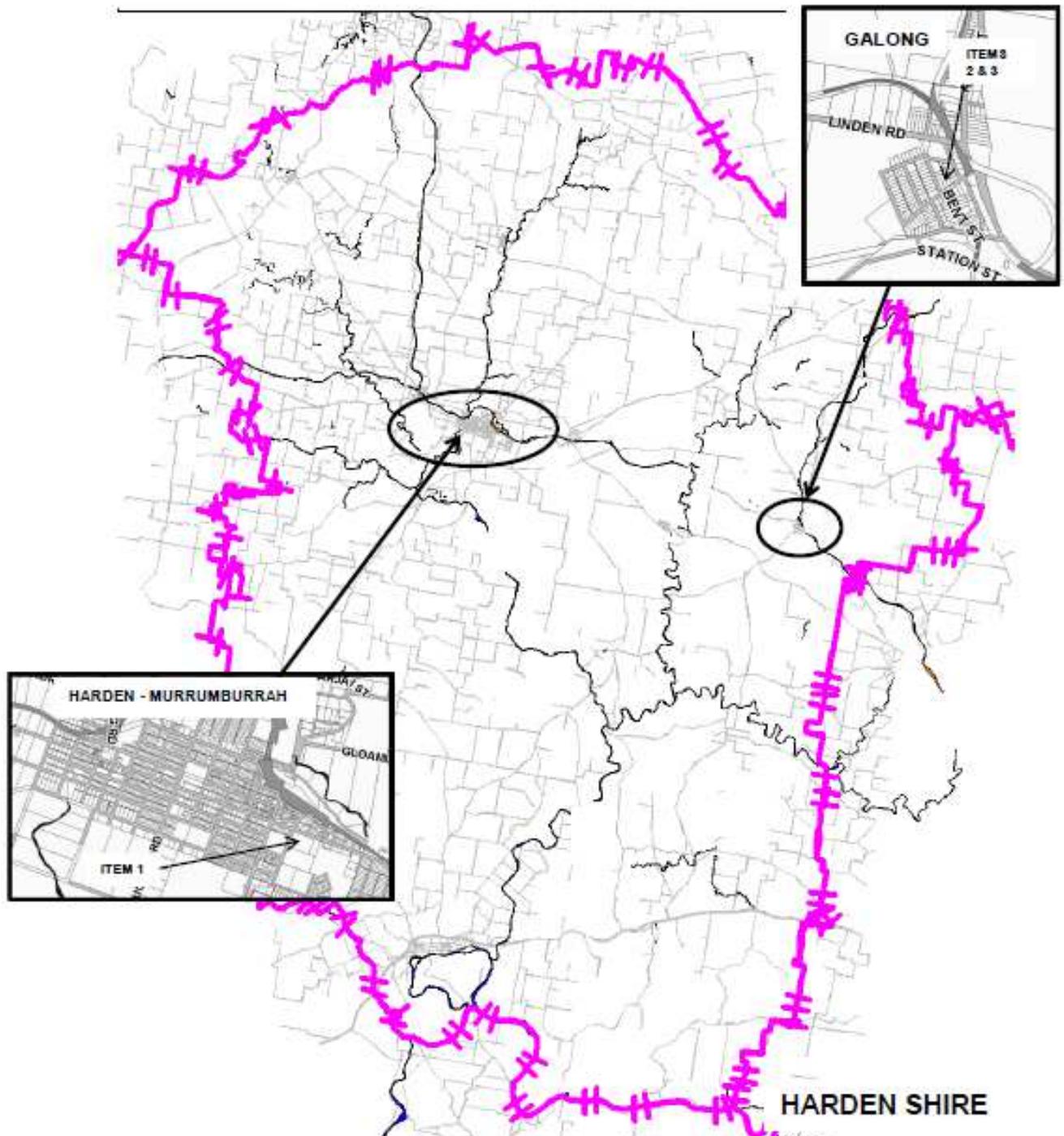


Figure 1 Location of Works

1.4 Calculating a contribution under the plan

The contribution is determined on the basis of the rate applicable to the type of development that is set out in clause 1.1 of this plan.

The contribution will be calculated as follows:

$$\text{Contribution (\$)} = \text{\%C} \times \text{\$C}$$

Where

\%C is the contribution percentage rate applicable

\\$C is the proposed cost of carrying out the development

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the EP&A Regulation and clause 3.10 of this plan.

1.5 Overview of development contributions

What are development contributions?

Development contributions are contributions made by those undertaking development approved under the EP&A Act toward the provision of public services and amenities.

A council can require, through imposition of a condition or conditions on a development consent, development contributions if:

- it has adopted a contributions plan justifying the contribution (such as this plan); and
- the contribution is imposed in accordance with the provisions of such a plan.

Development contributions imposed as a condition of development consent by a council are limited to contributions for certain kinds of local infrastructure. That is, public services and amenities that are not water supply or sewerage services.

There are two kinds of development contributions for local infrastructure that may be required by a consent authority – Section 94A levies and Section 94 contributions. However, only one or the other type may be imposed on any individual development consent.

A Section 94A levy is a monetary contribution that is based on a percentage of the proposed cost of carrying out a development.

This plan is concerned only with Section 94A levies.

Council has prepared a separate plan addressing the application of Section 94 contributions to certain types of heavy haulage developments.

Planning agreement contributions

The EP&A Act allows for the negotiation of voluntary planning agreements between councils, developers, and/or other planning authorities in which the developer is required to dedicate land

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free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards public purposes.

Council may choose to negotiate planning agreements with relevant parties in relation to major or 'one-off' developments that involve a single or few land owners.

A planning agreement negotiated and made under this clause shall be subject to any provisions of or Ministerial directions made under the EP&A Act and EP&A Regulation relating to planning agreements.

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2. Relationship between expected development and demand for infrastructure

The Harden LGA is projected to experience urban and rural development in the future.

New development is expected to be in terms of residential and commercial, industrial, rural and other non-residential development across the Shire. Development will occur in the form of new development and alterations and additions to existing development.

Development of the area is likely to result in an increase in the demand for, and therefore the provision of, public services and amenities that the Council traditionally provides (for example, parks and community services). The costs and programs of works relating to this infrastructure are shown clause 1.2 of this plan.

Existing public services and amenities have been generally designed to accommodate the needs generated by the existing population of the Harden Shire.

Future development of the area, and the populations that will use and occupy such development, will need to be sustained by a significant investment in the provision, extension and augmentation of infrastructure and services.

Council considers it appropriate that development make a reasonable contribution (that is, a Section 94A levy) toward the cost of providing this infrastructure.

3. Administration and operation of this plan

3.1 Definitions

In this plan, the following words and phrases have the following meanings:

Council means Harden Shire Council.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EPA Regulation means the Environmental Planning and Assessment Regulation 2000.

LGA means local government area.

Planning agreement means a voluntary planning agreement referred to in section 93F of the EP&A Act.

Section 94A levy means a fixed development consent levy referred to in section 94A of the EP&A Act.

Works schedule means the schedule of the specific public facilities for which contributions may be required under this plan as set out in clause 1.2 of this Plan.

3.2 Name of this plan

This contributions plan is called the Harden Contributions Plan for Other Developments.

3.3 Purposes of this plan

The primary purpose of the plan is to authorise:

- the council, when granting consent to an application to carry out development to which this plan applies; or
- an accredited certifier, when issuing a complying development certificate for development to which this plan applies,

to require a fixed levy contribution to be made towards the provision, extension or augmentation of public services and amenities in the area.

Other purposes of the plan are:

- to assist the council to provide the appropriate infrastructure that is required to maintain and enhance amenity and service delivery within the area;
- to identify the specific community amenities and services that are required to be funded by section 94A levies under this plan, including an estimate of the cost and staging of such works; and
- to ensure Council's management of development contributions complies with relevant legislation and practice notes, and achieves best practice in plan format and management.

3.4 Commencement of this plan

This plan commences on the date on which public notice was published, pursuant to clause 31(4) of the EP&A Regulation.

3.5 Land to which this plan applies

This plan applies to all of the land situated within the Harden LGA.

3.6 Development to which this plan applies

This contributions plan applies to applications for development consent and applications for complying development certificates under Part 4 of the EP&A Act, for the types of development listed in clause 1.2 of the plan.

The rates for different types of development are also set out in that clause.

3.7 Development exempted from contributions under this plan

3.7.1 Development exempted by Ministerial direction

The Minister for Planning may (under section 94E of the EP&A Act) direct that development of a certain type or within a certain area cannot be subject to a requirement for a development contribution.

Any Ministerial direction under Section 94E which has been made and is in force from time to time is included in the Attachments to this plan.

3.8 Relationship to other plans and policies

Nothing in this Plan affects the operation and application of any other contributions plan that apply to land in the Shire of Harden.

A condition requiring a Section 94 contribution may be imposed on a development consent as an alternative to imposing a condition authorised by this plan.

This plan complements existing environmental planning instruments and Council's various development control plans and policies applying to land in the Shire of Harden. However, developers and owners should check other relevant plans and policies for further information and development standards that may relate to their site.

3.9 Monetary contribution for public amenities and services may be required as a condition of consent

This plan authorises the council or an accredited certifier, when determining a development application or an application for a complying development certificate relating to development to which this plan applies, to impose a condition under section 94A of the EP&A Act requiring the payment of a monetary contribution to the council towards the provision, extension or augmentation of public amenities and services as specified in the works schedule to this plan.

This plan also authorises the Council to require monetary contributions from development towards recouping the cost of the provision of existing local infrastructure that has been provided by the council for or to facilitate the carrying out of development and which the development will benefit from.

The contribution shall be calculated in accordance with clause 1.4 of this plan and shall be contained in a condition in the development consent or complying development certificate in the form shown below:

Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Harden Contributions Plan for Other Developments, a fixed levy of **[\$[insert total amount]** shall be paid to the Council.

The levy, calculated from Harden Contributions Plan for Other Development, is based on a proposed cost of carrying out the development of **[\$[insert the proposed cost assessed by the Council]**.

This cost, and the consequent levy identified above, shall be adjusted between the time of issue of this consent and the date on which the contribution is payable in accordance with the provisions of *Harden Contributions Plan for Other Developments*.

A requirement for a fixed levy under this plan shall not be imposed on a development if:

- the development is exempted from making a contribution under this plan (refer clause 3.7); or
- a section 94 contribution is to be required in relation to that development.

3.10 Cost summary report

A development application or an application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out development.

A copy of a standard cost summary report is included in the Attachments to this Plan.

Where the proposed cost of development is likely to be more than \$1,000,000 the report must be prepared by a quantity surveyor registered by the Australian Institute of Quantity Surveyors engaged by or on behalf of the applicant, at the applicant's cost (or a person who can demonstrate equivalent qualifications).

Without limitation, Council may appoint a person to review the estimate of the proposed cost of development. The review is to be undertaken at the applicant's cost.

3.11 Obligations of accredited certifiers

3.11.1 Complying development certificates

Subject to the Act and any direction of the Minister under the Act which is in force from time to time, this plan authorises that, in relation to an application made to an accredited certifier for a complying development certificate:

- the accredited certifier must, if a complying development certificate is issued, impose a condition requiring a development contribution, if such a contribution is authorised by this plan; and

- the amount of the monetary contribution that the accredited certifier must so impose is the amount determined in accordance with this plan.

Any Ministerial direction the Act which has been made and is in force from time to time is included in an Attachment to this plan.

It is the responsibility of the principal certifying authority to accurately calculate and apply the development contribution conditions to complying development certificates. Deferred payments of contributions required by a condition of a complying development certificate will not be accepted.

If an accredited certifier fails to comply with this requirement, the consent authority may impose the necessary condition on the complying development certificate and it has effect as if it had been imposed by the accredited certifier.

3.11.2 Construction certificates

Likewise, it is the responsibility of an accredited certifier issuing a construction certificate to certify that development contributions have been paid to the council prior to the issue of the certificate.

The accredited certifier must ensure that the applicant provides a receipt (or receipts) confirming that contributions 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 Regulation. Failure to follow this procedure may render such a certificate invalid and expose the certifier to legal action.

The only exceptions to the requirement are where a work in kind, material public benefit, dedication of land and/or deferred payment arrangement has been agreed by the consent authority. In such cases the council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

3.12 Adjustment of contributions required by a condition imposed under this plan

The purpose of this section is to ensure that the monetary contributions imposed on developments at the time of consent are adjusted at the time of payment to account for the effects of inflation of delivering local infrastructure.

The contribution required by a condition of development consent imposed in accordance with this plan will be indexed between the date of the grant of the consent and the date on which the contribution is made as follows.

Under clause 25J(4) of the EP&A Regulation the proposed cost of carrying out development that is the subject of the fixed levy condition, may be adjusted before payment to reflect quarterly or annual variations to readily accessible index figures adopted by a contributions plan between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.

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

$$\text{Indexed development cost (\$)} = \frac{\text{\$ODC} \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

\$ODC is the original development cost estimate assessed by the Council at the time of determination of the development application

Current CPI is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the quarter ending immediately prior to the date of payment

Base CPI is the *Consumer Price Index (All Groups Index)* for Sydney as published by the Australian Statistician at the quarter ending immediately prior to the date of imposition of the condition requiring payment of the contribution

3.13 Timing of payment of monetary contributions required under this plan

Council's policy in relation to the timing of payments of monetary contributions required under this plan is as follows:

- Development applications involving subdivision - prior to the release of the subdivision certificate.
- Development applications involving building work - prior to the release of the construction certificate.
- Development applications where no subdivision or building approval is required – prior to the issue of development consent or release of the occupation certificate.
- Complying development works – prior to the issue of a complying development certificate.

3.14 Policy on deferred or periodic payments

Council does not accept deferred payment of contributions required under this plan.

3.15 Are there alternatives to paying the contribution?

If an applicant does not wish to pay a fixed levy contribution in connection with the carrying out of development, the applicant may offer to enter into a voluntary planning agreement with the Council under section 93F of the EP&A Act to provide or make a contribution toward the provision of public amenities and services.

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 or to the infrastructure items listed in clause 1.2 of this plan.

The contributions proposed by an applicant under a planning agreement may be additional to or instead of paying a monetary contribution in accordance with a condition of development consent authorised by this plan.

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 requiring the agreement to be entered into and performed; or
- 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 fixed levy contribution.

3.16 Pooling of funds

To provide a strategy for the orderly delivery of the infrastructure, this plan authorises monetary contributions paid:

- for different purposes in accordance with the conditions of various development consents authorised by this plan; and
- for different purposes under any other contributions plan approved by the council

to be pooled and applied progressively for those purposes.

The priorities for the expenditure of pooled monetary contributions under this plan are the priorities for works as set out in the works schedule contained in clause 1.2 of the plan.

In deciding whether to pool and progressively apply contributions funds, Council is satisfied that this action will not unreasonably prejudice the carrying into effect, within a reasonable time, of the purposes for which the money was originally paid.

3.17 Accountability and access to information

Council is required to comply with a range of financial accountability and public access to information requirements in relation to public amenities and services contributions. These are addressed in Divisions 5 and 6 of Part 4 of the EP&A Regulation and include:

- maintenance of, and public access to, a contributions register;
- maintenance of, and public access to, accounting records for contributions receipts and expenditure;
- annual financial reporting of contributions; and
- public access to contributions plans and supporting documents.

These records are available for inspection free of charge at the Council's administration office.

3.18 Review of contributions plan

Council will undertake review of this plan every 5 years from the date of commencement to ensure that:

- the plan continues to address the infrastructure needs generated by new development; and
- the local infrastructure will be delivered in a reasonable time.

Review, amendment and updating of the plan (except for the types of amendments specified in clause 32(3) of the EP&A Regulation) will require preparation and public exhibition of a new contributions plan.

3.19 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 determination of the application.

4. Attachments

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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTION UNDER SECTION 94E

I, the Minister for Planning, under section 94E of the *Environmental Planning and Assessment Act 1979* ("the Act"), direct consent authorities that:

- (1) The maximum percentage of the levy for development under section 94A of the Act, having a proposed cost within the range specified in the Table to Schedule A, is to be calculated in accordance with that Table.
- (2) Despite subclause (1), a levy under section 94A of the Act cannot be imposed on development:
 - a) for the purpose of disabled access,
 - b) for the sole purpose of affordable housing,
 - c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
 - d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or
 - e) 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 this direction words and expressions used have the same meaning as they have in the Act. The term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*.

This direction does not apply to development applications and applications for complying development certificates finally determined before 1 December 2006.



FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.
[Dated: 10 November 2006]

SCHEDULE A

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

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COST SUMMARY REPORT

DEVELOPMENT APPLICATION NO.

CONSTRUCTION CERTIFICATE NO.

APPLICANT'S NAME: _____

APPLICANT'S ADDRESS: _____

LOCATION OF PROPOSED DEVELOPMENT: _____

ANALYSIS OF DEVELOPMENT COSTS:

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	\$
Lift services	\$
External works	\$
External services	\$
Other related work	\$
Sub-total:	\$

Sub-total carried forward	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant fees	\$
Other related development costs	\$
Sub-total	\$
Good and Services Tax	\$
TOTAL PROPOSED COST OF DEVELOPMENT	\$

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 proposed cost of development in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices; and
- ⇒ included GST in the calculation of proposed cost of development.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____