



# **Upper Lachlan Section 94A Development Contributions Plan**

**Adopted by Council 27 March 2012, Minute Number 88/12, Effective 28 March 2012.**

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## Part A – Summary schedules

The following summary schedules are provided to show new public facilities, to be provided by Council, including an estimated cost and timing of provision and the levy rates applicable to development.

**Table 1 Summary Schedule – Public facilities to be funded by this Plan**

Public facilities	Estimated costs
Roadworks	\$6,013,000
Water and Sewer	\$22,200,000
Drainage	\$1,000,000
Recreation	\$75,000
Community Facilities	\$4,751,000
Waste Facilities	\$1,200,000
Bridges	\$963,000

- Refer to Appendix B for the detailed Works Schedule
- Refer to Appendix C for the detailed location of Works

**Table 2 Levies payable for development**

Proposed cost of development	Contribution rate
Proposed cost of development is \$100,000 or less	Nil
Proposed cost of development is between \$100,001 and \$200,000	0.5 % of the proposed cost of development
Proposed cost of development exceeds \$200,000	1 % of the proposed cost of development

## **Part B – Expected development and demand for public facilities**

The expected types of development to be levied include, but not limited to, the following:

- Power Station Developments
- Wind Power Developments
- Regional Developments
- State Significant Developments

The Upper Lachlan Shire Council LGA is projected to experience urban and rural development in the future.

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

- The Upper Lachlan Strategy Plan 2020
- The likely population growth will require the provision of additional public facilities
- The likely population growth will diminish the existing populations enjoyment and standards of public facilities

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

It is also the case that prospective developments will substantially increase the usage of Council amenities and infrastructure by non residents.

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

## Part C – Administration and operation of the Plan

### 1.1 Name of Plan

This Plan is called the Upper Lachlan Section 94A Development Contributions Plan. This Plan has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

### 1.2 Land to which this Plan applies

This Plan applies to all land within the Upper Lachlan Shire local government area.

### 1.3 Commencement of this Plan

This Plan commences on 28 March 2012.

### 1.4 Purpose of this Plan

The primary purposes of this Plan are:

- to authorise the imposition of a condition on certain development consents and complying development certificates requiring the payment of a contribution pursuant to section 94A of the *Environmental Planning and Assessment Act 1979*
- to assist the Council to provide the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area
- to publicly identify the purposes for which the levies are required. (see Appendix 'C')

### 1.5 Exemption to the levy

The levy will not be imposed in respect of development:

- where the proposed cost of carrying out the development is \$100,000 or less;
- for the purpose of disabled access; or
- for the sole purpose of providing affordable housing; or
- for the purpose of reducing a building's use of potable water (where supplied from water mains) or energy; or
- for the sole purpose of the adaptive reuse of an item of environmental heritage; or
- that has been the subject of a condition under section 94 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.

Council may consider exempting other development, or components of developments from the section 94A levy on a case by case basis.

### 1.6 Pooling of levies

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 are shown in the works schedule.

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.

## 1.7 Construction certificates and the obligation of accredited certifiers

In accordance with clause 146 of the *EP&A Regulation*, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the *EP&A Regulation*. Failure to follow this procedure may render such a certificate invalid.

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

## 1.8 How will the levy be calculated ?

The levy will be determined on the basis of the rate as set out in summary schedule. 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

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the *EP&A Regulation*. The procedures set out in Schedule 1 to this Plan must be followed to enable the Council to determine the amount of the levy to be paid.

The value of the works must be provided by the applicant at the time of the request and must 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 of 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.

## 1.9 When is the levy payable ?

A levy must be paid to the 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 issue of a construction certificate or complying development certificate.

### 1.10 How will the levy be adjusted ?

Contributions required as a condition of consent under the provisions of this plan will be adjusted at the time of payment of the contribution in accordance with the following formula:

**Contribution at time of payment =  $\$C_o + A$**

Where

$\$C_o$  is the original contribution as set out in the consent

$A$  is the adjustment amount which is =

$$\frac{\$C_o \times ([\text{Current Index} - \text{Base Index}])}{[\text{Base Index}]}$$

Where

Current Index is the Consumer Price Index as published by the Australian Bureau of Statistics available at the time of review of the contribution rate;

Base Index is the Consumer Price Index, Australia (All Groups Index for Capital Cities) as published by the Australian Bureau of Statistics at the date of adoption of this plan used in preparation of this plan which is 179.4 as at February 2012.

Note: In the event that the Current CPI is less than the previous CPI, the Current CPI shall be taken as not less than the previous CPI.

### 1.11 Can deferred or periodic payments be made ?

Deferred or periodic payments may be permitted in the following circumstances:

- deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program,
- If Council does decide to accept deferred or periodic payment, Council shall require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on condition that:
  - the bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security
  - the bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work
  - the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development
  - the bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required
- where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

**1.12 Continuation of Existing Section 94 Plans**

This plan does not repeal any Section 94 Development Contributions Plan applying to Upper Lachlan local government area, and those Section 94 Development Contributions Plans continue to apply to all development to which they are stated to apply.

**1.13 Review of Works Schedule**

Council will review and update the Works Schedule (Appendix B) annually to remove completed works from the schedule and add new works as required.

## Part D – References

### Dictionary

In this Plan, unless the context or subject matter otherwise indicates or requires the following definitions apply:

**ABS** means the Australian Bureau of Statistics

**Civic Improvement** means a work carried out to improve the appearance or use of public areas, such as streets, malls, footpaths and the like.

**Community Facility** means a building or place owned or controlled by the Council or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a building or place elsewhere defined in this section.

**Development Contribution** means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the *Environmental Planning and Assessment Act 1979*.

**Council** means the Upper Lachlan Shire Council.

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

**EP&A Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Levy** means a levy under section 94A of the *Environmental Planning and Assessment Act 1979* authorised by this plan.

**Material Public Benefit** means something provided by an applicant, other than the dedication of land or the payment of a monetary contribution, which does not relate to an item appearing in the works schedule of a contributions plan.

**Planning Agreement** means an agreement between Council or other consent authorities and developers where contributions are secured by way of negotiation. A planning agreement is voluntary by all parties to the agreement or may be another arrangement between a planning authority and a developer under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit to be used for or applied towards a public purpose.

**Power Station** also referred to as a generating station, power plant, or powerhouse, is an industrial facility where electrical energy is generated. It may be powered by fossil fuel (coal), natural gas, bio-mass, solar, wind or other sources.

**Public Facilities** means any public amenity or public service, as referred to in section 94 of the *Environmental Planning and Assessment Act 1979*, including a "community facility" and a "recreation facility", the need for which has increased or been created by development.

**Recreation Facility** means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but does not include a building or place elsewhere defined in this section.

**Regional Development** means development of a class or description included in Schedule 4A to the EP&A Act.

**State Significant Development** means Development that is specified in Schedule 1 or Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011 is declared to be State Significant Development for the purposes of the EP&A Act.

**Upper Lachlan LEP** means the *Upper Lachlan Local Environmental Plan 2010*.

**Upper Lachlan** means the Upper Lachlan Local Government Area.

**Wind Power Developments** means wind power generation from turbine(s) or towers with a peak capacity of power rated output.

**Works in Kind** means the undertaking of a work or provision of a facility by an applicant which is already nominated in the works schedule of a contributions plan.

## Appendix A

### Procedure

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 must be completed for works with a value no greater than \$ 5,000,000

Quantity Surveyor's Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value of \$ 5,000,001 or greater.

To avoid doubt, section 25J of the *Environmental Planning and Assessment Act 1979* sets out the matters that are included in the estimation of the 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.

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#### **25J Section 94A levy—determination of proposed cost of development**

*Extract from Environmental Planning and Assessment Regulation 2000*

- (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,
  - (j) the costs of enabling access by disabled persons in respect of the development,
  - (k) the costs of energy and water efficiency measures associated with the development,
  - (l) the cost of any development that is provided as affordable housing,
  - (m) the costs of any development that is the adaptive reuse of a heritage item.
- (4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.
- (5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.

**Cost Summary Report**

Development Cost no greater than \$ 5,000,000

Development Application No. Reference: Complying Development Certificate Application No. Construction Certificate No. Date: 

Applicant's name: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Development Name: \_\_\_\_\_

Development Address: Lot/s \_\_\_\_\_ DP \_\_\_\_\_

Street/Road \_\_\_\_\_ Town/Locality \_\_\_\_\_

**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 work	\$
Fittings and equipment	\$	Sub-total	\$

Sub-total above carried forward	\$
Preliminaries and margin	\$
<b>Sub-total</b>	\$
Consultant Fees	\$
Other related development costs	\$
<b>Sub-total</b>	\$
Goods and Services Tax	\$
<b>TOTAL DEVELOPMENT COST</b>	\$

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: \_\_\_\_\_

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

**Registered\* Quantity Surveyor's Detailed Cost Report**

Development Cost in excess of \$ 5,000,001 \*A member of the Australian Institute of Quantity Surveyors

Development Application No.  Reference: Complying Development Certificate Application No. Construction Certificate No.  Date: 

Applicant's name: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Development Name: \_\_\_\_\_

Development Address: Lot/s \_\_\_\_\_ DP \_\_\_\_\_

Street/Road \_\_\_\_\_ Town/Locality \_\_\_\_\_

**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>Total Construction Cost</b>	\$		
<b>Total GST</b>	\$		

**Estimate details:**

<b>Professional Fees</b>	\$	<b>Excavation</b>	\$
% of Development Cost	%	Cost per square metre of site area	\$ /m <sup>2</sup>
% of Construction Cost	%	<b>Car Park</b>	
<b>Demolition and Site Preparation</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>Fit-out – Commercial</b>	\$
Cost per square metre of commercial area	\$ /m <sup>2</sup>	Cost per m2 of commercial area	\$ /m <sup>2</sup>
<b>Construction – Residential</b>	\$	<b>Fit-out – Residential</b>	\$
Cost per square metre of residential area	\$ /m <sup>2</sup>	Cost per m2 of residential area	\$ /m <sup>2</sup>
<b>Construction – Retail</b>	\$	<b>Fit-out – Retail</b>	\$
Cost per square metre of retail area	\$ /m <sup>2</sup>	Cost per m2 of retail area	\$ /m <sup>2</sup>

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate.
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors.
- calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions Plan of the Council of [insert] at current prices.
- included GST in the calculation of development cost.
- measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

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

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

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

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

## Appendix B

### Works Schedule

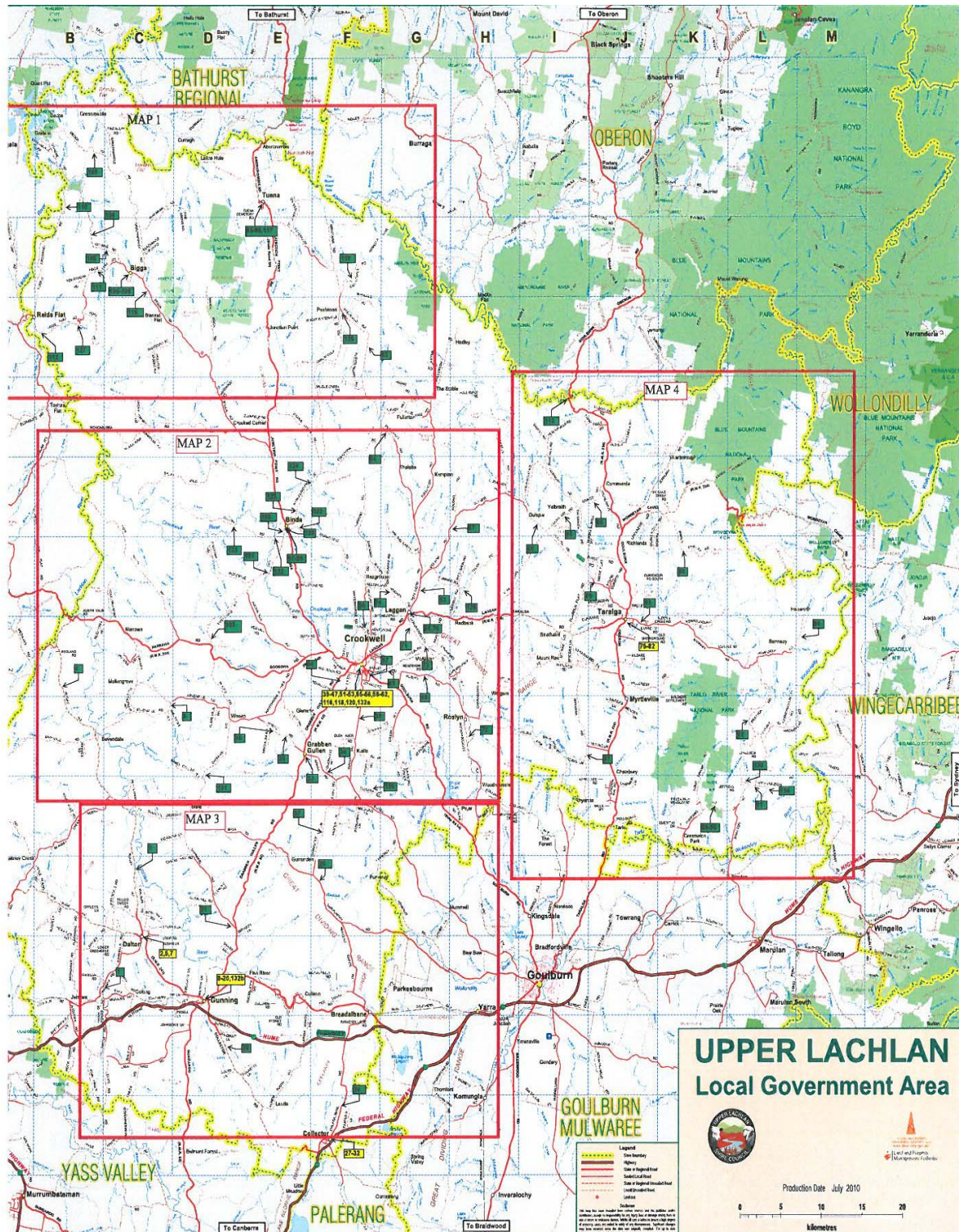
Project number	Locality	Description	Project Description	Estimated Cost	Target works year
<b>Roadworks</b>					
21	<b>BREADALBANE</b>	Gurrundah Road Rehabilitation	Rehabilitation of selected segments of Gurrundah Road between Grabben Gullen Road and Heffernans Quarry. The pavement is old, narrow (5m) and cracked	\$3,960,000	2014
49	<b>CROOKWELL</b>	Goulburn Street upgrade	Rehabilitation of Goulburn Street shoulders only between Roberts Street to Laggan Road. The pavement is old, the existing K&G is high and excessive crossfall on the shoulders (parking lanes). Note: RMS responsible for 2*3.5m lanes in centre of road	\$300,000	2013
105	<b>LAGGAN</b>	Peelwood Road rehabilitation	Rehabilitation of Peelwood Road from Laggan Village to Golspie Road. The pavement is old, out of shape, extensively cracked and water ponds in the rutting which potentially is hazardous to motorists.	\$912,000	2015
122	<b>TARALGA</b>	East end Bunnaby Street & Macarthur Street rehabilitation	Rehabilitation of McCarthur Street and Bunnaby Street near Police Station. The pavement is old, out of shape, extensively cracked and rutted which potentially is hazardous to motorists. Included Kerb & Gutter reconstruction	\$531,000	2015
130	<b>TARALGA</b>	Bannaby Road Erosion Repairs at Hanworth	Batters scoured and undermining private fences	\$310,000	2013
	<b>Total</b>			<b>\$6,013,000</b>	

Project number	Locality	Description	Project Description	Estimated Cost	Target works year
<b>Water and Sewer</b>					
40	<b>COLLECTOR</b>	Water supply investigation	Undertake hydrogeological study and test drilling to identify groundwater source for town water supply	\$200,000	2016
41	<b>COLLECTOR</b>	Water Scheme	Construct water treatment and distribution system for the Collector village	\$2,000,000	2018
65	<b>CROOKWELL</b>	Crookwell Water Treatment Plant	Construct New WTP for Crookwell	\$6,000,000	2015
79	<b>DALTON</b>	Dalton Water Supply Upgrade	Construction of New Water Treatment Plant for Dalton	\$2,000,000	2014
102	<b>GUNNING</b>	Gunning Water Supply Upgrade	Construction of Water Treatment Plant	\$12,000,000	2014
	<b>Total</b>			<b>\$22,200,000</b>	
<b>Drainage</b>					
53	<b>CROOKWELL</b>	North Street drainage & piping	Culvert installation existing culvert upgrades to alleviate flooding of nearby residents and businesses in heavy rainfall events	\$200,000	2014
48	<b>CROOKWELL</b>	Goulburn Street Davey Motors Drainage works	Construction of storm water retention ponds, culvert installation in open channel, existing culvert upgrades to alleviate flooding of nearby residents and businesses in heavy rainfall events	\$800,000	2015
	<b>Total</b>			<b>\$1,000,000</b>	
<b>Recreation</b>					
70	<b>CROOKWELL</b>	Amenities Clifton Park	Construction of Toilet Facilities in Clifton Park	\$75,000	2018
	<b>Total</b>			<b>\$75,000</b>	
<b>Community Facilities</b>					
46	<b>COLLECTOR</b>	Footpaving around Collector School	Improve safety for children accessing Collector School	\$100,000	2015
71	<b>CROOKWELL</b>	Crookwell Cemetery land	Purchase of additional land for expansion of Crookwell Cemetery	\$130,000	2013

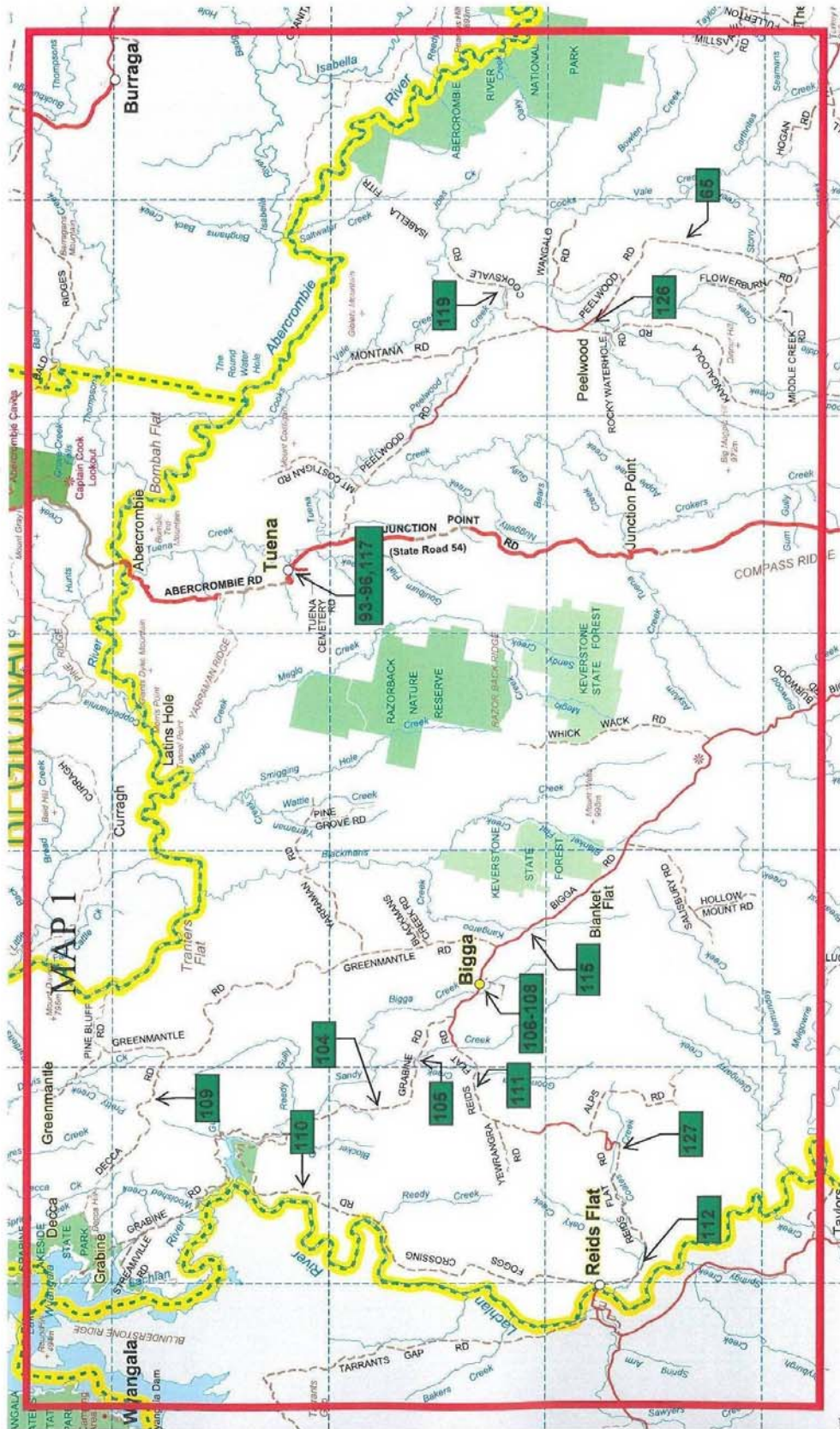
Project number	Locality	Description	Project Description	Estimated Cost	Target works year
88	<b>GUNNING</b>	Connect showground to sewer		\$11,000	2016
119	<b>MISC.</b>	Disabled access issues main street	Investigations and Council assistance to upgrade disabled access into commercial businesses in ULSC	\$100,000	2015
120	<b>MISC.</b>	Footpath construction all villages	Stage 1 – Construct new path in all villages on selected streets	\$500,000	2018
128	<b>TARALGA</b>	New fence at Goodhew Park	Replace old picket fence	\$10,000	2016
138	<b>CROOKWELL</b>	Construct new Community Centre		\$3,900,000	2016
	<b>Total</b>			<b>\$4,751,000</b>	
<b>Waste Facilities</b>					
7	<b>BIGGA</b>	Bigga Tip	Construct transfer station facilities at tip	\$200,000	2016
43	<b>COLLECTOR</b>	Collector tip/transfer station	Construct transfer station facilities at tip	\$200,000	2015
64	<b>CROOKWELL</b>	Crookwell Waste Centre	Construct transfer station facilities at waste centre	\$200,000	2015
101	<b>GUNNING</b>	Gunning Waste Centre Upgrade	Construction of waste transfer facilities at Gunning Waste Management Centre	\$200,000	2016
127	<b>TARALGA</b>	Taralga waste centre upgrade	Construct transfer station facilities at tip	\$200,000	2015
134	<b>TUENA</b>	Tuena tip upgrade	Construct transfer station facilities at tip	\$200,000	2016
	<b>Total</b>			<b>\$1,200,000</b>	
<b>Bridges</b>					
23	<b>BIGGA</b>	Kangaroo Creek Bridge Bigga	Existing Timber bridge is old, narrow and in need of rebuild	\$513,000	2015
24	<b>CROOKWELL</b>	Brooklands Bridge replacement	Replace with low level footpath	\$300,000	2013
135	<b>TUENA</b>	Suspension Bridge replacement/reconstruction		\$150,000	2013
	<b>Total</b>			<b>\$963,000</b>	

## Appendix C

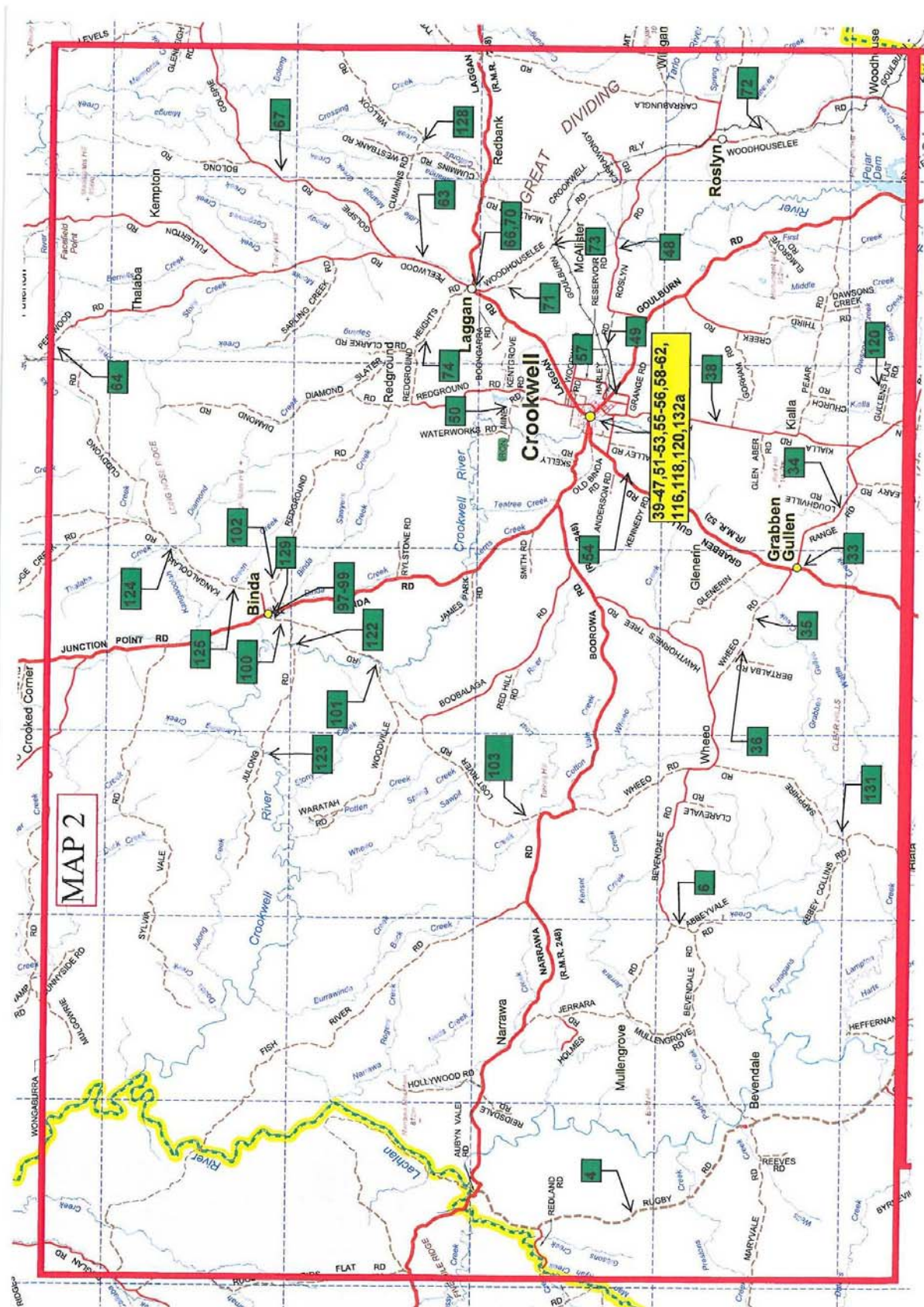
### Location of works



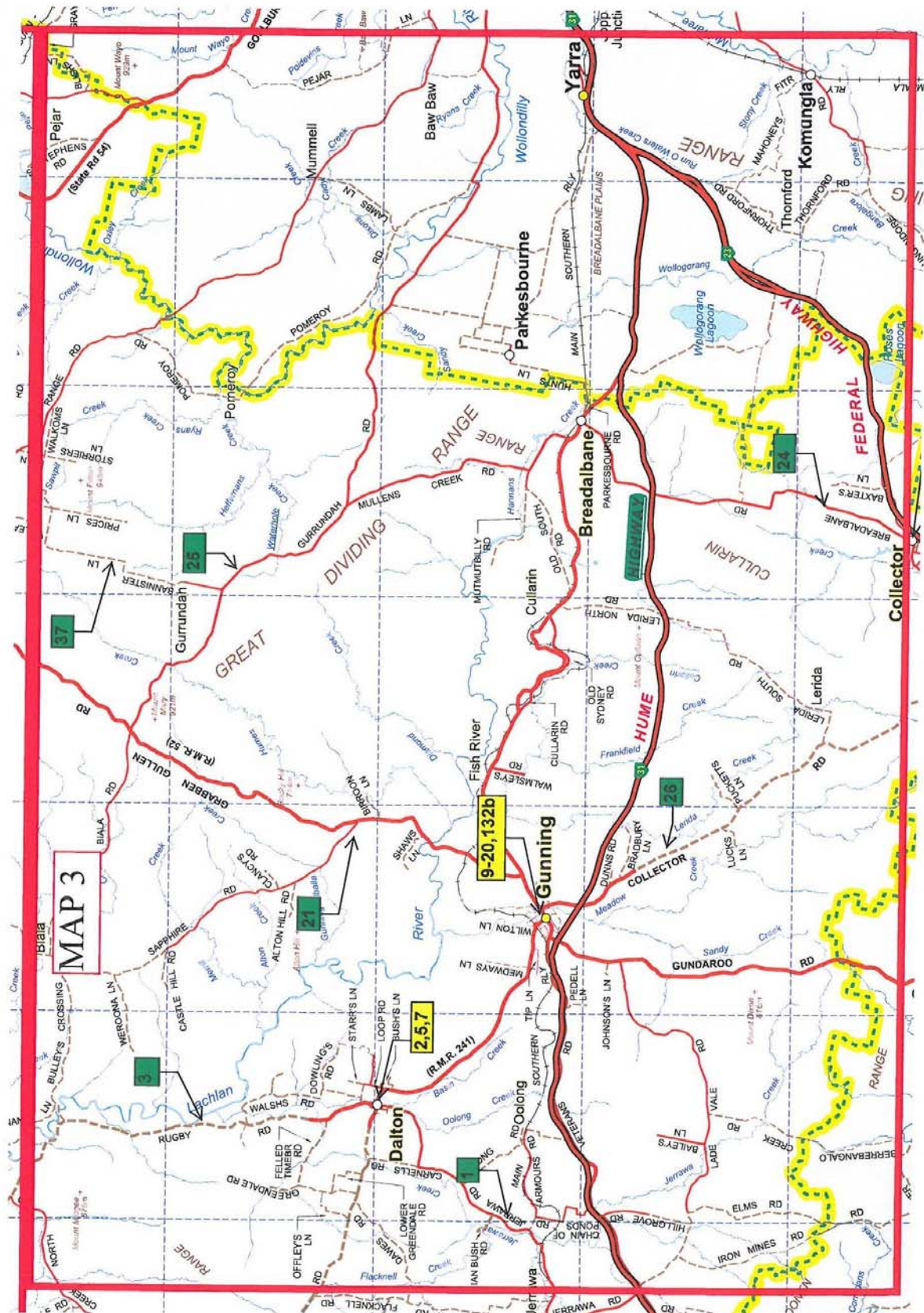
Map 1



Map 2



Map 3



Map 4

