



GUYRA  
SHIRE  
COUNCIL

SECTION 94 DEVELOPMENT CONTRIBUTION  
PLAN No. 1 - TRAFFIC GENERATING  
DEVELOPMENT

## Contents

Part A - Introduction .....	3
Part B - Administration of the Plan .....	3
B1. Basic Principles of developer contributions .....	3
B2. Name of the Plan .....	4
B3. Commencement .....	4
B4. Relationship with Other Plans and Policies .....	4
B5. The Purpose of the Plan .....	4
B6. Definitions .....	5
B7. Development to which the Plan Applies .....	6
B8. Types of Public Service covered by this Plan.....	7
B9. When is the Contribution Payable?.....	7
B10. Deferred / Periodic Payments .....	8
B11. Contributions 'in-kind' and material public benefits .....	9
B12. Review of contribution rates.....	9
B13. Section 94A and Planning Agreements.....	10
B14. Administration.....	10
B15. Cross Boundary Contributions.....	10
B16. Pooling of Contributions .....	10
B17. Savings and Transitions Arrangements .....	10
Part C - Strategy Plans .....	11
C.1 Traffic Generating Developments .....	11
C.2 Council's Contribution Methodology .....	11
C.3 Method of Measurement .....	11
C.4 Contributions Methodology .....	11
Expenditure on Roads.....	11
Pavement Design Life .....	12
Haulage Distance .....	12
C.5 Nominated Works .....	13
C.6 Map of Affected Area .....	14
Part D - References.....	15

## Part A - Introduction

Damage to bitumen and gravel road pavements due to heavy vehicles from traffic generating developments is a significant impact on the public roads and Council's budget. Where a development has proposed that heavy vehicles use the public roads in the Shire and the existing road infrastructure is inadequate to carry the additional load, a contribution will be sought from the proposed development towards the cost of maintenance, repair and rehabilitation of the road network.

The NSW Land and Environment Court has recognised the significant impact that road haulage vehicles associated with traffic generating developments and in particular extractive industries have on the public road system, beyond the normal usage by the general public, and accordingly has accepted that Section 94 of the Environmental Planning & Assessment Act, 1979 is an appropriate mechanism for the levy of contributions for the upgrading and rehabilitation of effected public roads.

## Part B - Administration of the Plan

### B1. Basic Principles of developer contributions

Section 94 of the Environmental Planning & Assessment Act, 1979 enables Council to levy contributions from developers for the provision of public amenities and services required as a consequence of development.

The three general principles in applying Section 94 contributions are:

1. A contribution must be for, or relate to, a planning purpose;
2. A contribution must fairly and reasonably relate to the subject development; and
3. The contribution must be such that a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

Under the provisions of the Environmental Planning & Assessment Act, 1979 Council may either:

- Require land to be dedicated free of cost;
- Require money to be contributed for works or facilities to be provided in the future;
- Require money to be contributed towards the cost of works in kind, in satisfaction of Section 94 requirements; or
- Require or accept a combination of any of the above.

The ability to levy Traffic Generating Development for the cost of maintenance, repair and reconstruction of roads as a result of damage caused by trucks involved in the production and delivery of product is of considerable importance to the Council and Communities in the Shire.

The '*user pays*' approach can significantly reduce the public financial burden of road improvements and the damage caused to the roads.

One of the fundamental responsibilities of any Council in imposing Section 94 contributions is to ensure that the contributions levied are reasonable. That is, the works and facilities to be provided must be a direct consequence of the development on which the contributions are levied. They must not unnecessarily inflate development costs.

In keeping with this responsibility, Section 94 contributions levied on development within the Shire are limited to essential or base-line works. The methodology adopted is an equity based, average levy applied evenly to all developments. This accounts for the range of developments and difficulties in assessing the locations that will be affected into the future as business markets change. This provides all developers with a known levy over the duration of the developments life.

## **B2. Name of the Plan**

This Plan is titled the Guyra Development Contributions Plan No. 1 - Traffic Generating Development.

## **B3. Commencement**

This development contributions plan has been prepared pursuant to the provisions of section s94 of the *Environmental Planning and Assessment Act 1979* and Part 4 of the Environmental Planning and Assessment Regulation 2000 and takes effect from the date on which public notice was published, being 8 March, 2012, pursuant to clause 31(4) of the Environmental Planning and Assessment Regulation 2000.

## **B4. Relationship with Other Plans and Policies**

This development contributions plan operates alongside the Guyra Shire Council Section 94A Plan, 2006. At pre-development stage, a determination is to be made by Council under which plan the development is to managed, in accordance with the principles of each plan.

## **B5. The Purpose of the Plan**

The purpose of the Plan is to:

- a. Provide an administrative framework under which public facility strategies may be implemented and coordinated;
- b. To ensure the operation of Traffic Generating Development does not adversely impact on local roads and to assess the additional demand for road maintenance, repair and reconstruction arising from Traffic Generating Development;
- c. To authorise the Council to impose conditions under section 94 of the *Environmental Planning and Assessment Act 1979* when granting consent to development on land to which this plan applies;
- d. Provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis;
- e. Enable Council to be both publicly and financially accountable in its assessment and administration of this plan;
- f. To ensure that the existing community is not burdened by the costs of road works resulting from damage caused by heavy vehicles associated with the Traffic Generating Development;

- g. Demonstrate that the contributions have been set after due assessment of the likely needs and demands of the Traffic Generating Development in terms of access roads and their on-going maintenance;
- h. Justify the application of a levy for road works for each tonne of extracted/processed/produced material.

## B6. Definitions

<i>'Applicant'</i>	Means a person, company or organisation submitting a development application or an application for a complying development certificate or a person, company or organisation authorised to act on a consent.
<i>'Contribution'</i>	Means the dedication of land, the making of a monetary contribution or the provision of a material public benefit as referred to in Section 94 of the EP&A Act.
<i>'Contributions Plan'</i>	Means of contributions plan referred to in Section 94B of the EP&A Act.
<i>'Council' or 'GSC'</i>	Means the Guyra Shire Council.
<i>'CPI'</i>	Means the Consumer Price Index (All Groups Sydney) as published from time to time by the Australian Bureau of Statistics.
<i>'EP&amp;A Act'</i>	Means the environmental Planning and Assessment Act 1979 as amended.
<i>'Extractive industry'</i>	Means: <ul style="list-style-type: none"> <li>a) The wining of extractive material; or</li> <li>b) An undertaking, not being a mine, which depends for its operation on the winning of extractive material from the land on which it is carried on, and includes any stockpiling, washing, crushing, grinding, milling or separating into sizes of that extractive material on that land.</li> </ul>
<i>'Extractive material'</i>	Means sand, sandstone, gravel, clay, turf, soil, rock, stone or similar substances that are not minerals under the Minerals Act.
<i>'Industry'</i>	Means: <ul style="list-style-type: none"> <li>a) Any manufacturing process within the meaning of the Factories, Shops and Industries Act 1962; or</li> <li>b) The breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business.</li> </ul>
<i>'LEP'</i>	Means a Local Environmental Plan made by the Minister under Section 70 of the EP&A Act.

<i>'Operator'</i>	Means the registered owner or company operating the mine or extractive industry from time to time.
<i>'The Plan'</i>	Means this Guyra Section 94 Contributions Plan.
<i>'Public Facilities'</i>	Means public amenities or public services as referred to in Section 94 of the EP&A Act, including road works, the need for which is generated or increased by development.
<i>'Road works'</i>	Means any works carried out within a road reserve including pavement and surface reconstruction and rehabilitation, drainage, bridgeworks, benching and dust mitigation.
<i>'Rural Industry'</i>	Means handling, treating, process or packing of primary products and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.
<i>'s. 94'</i>	Means Section 94 of the EP&A Act.
<i>'Works In Kind'</i>	Has the same meaning as a material public benefit as referred to in Section 94(5)(b) of the EP&A Act and means the undertaking of any work associated with the provision of a public facility.
<i>'Works Schedule'</i>	Means the schedule of the specific public facilities for which contributions may be required and the likely timing of provision of those public facilities based on projected rates of development, the collection of development contributions and the availability of funds from supplementary sources.

## **B7. Development to which the Plan Applies**

This Plan applies to all Traffic generating Development and related operations as detailed in current and future Development Applications. Existing developments will continue to operate under their original development consents unless agreed in writing by both parties to move to this plan.

For the purpose of this plan, traffic generating developments are those developments that:

- Require the use of road haulage vehicles to support the operation of the enterprise;
- Generate additional traffic movements above levels of traditional agricultural activities;
- Developments which include, but not limited to, the following enterprises:
  - Wool scouring plants
  - Abattoirs
  - Rendering plants
  - Saleyards
  - Wood or timber milling or processing works including wood preservation works
  - Wineries or associated works
  - Warehouses

- Light industry
- Intensive agricultural enterprises
  - Feedlots
  - Poultry farms
  - Piggeries
  - Dairies
- Composting works
- Transport terminals
- Grain storage complex
- Feedmills
- Extractive industries
- Mine
- Rural industry

### **B8. Types of Public Service covered by this Plan**

The following public benefit and services may be covered by this Plan:

- Upgrading and/or construction of roads
- Intersection upgrading and construction
- On-going maintenance and repair of roads
- Drainage works
- Traffic management measures, and
- Bitumen sealing

Council will levy contributions for these items only under the provisions of this Plan.

### **B9. When is the Contribution Payable?**

A contribution must be paid to Council at the time specified in the condition that imposes the contribution. Unless otherwise agreed to by Council, the contributions must be paid prior to the issue of a development consent, construction certificate or complying development certificate.

Council will accept developer contributions payments by way of a monetary contribution.

The Section 94 contribution is calculated from true certified copies of weighbridge docket, log books, diary entries and/or other returns or records that show the true quantities of the extracted and/or processed material transported from an extraction site.

The applicant/operator or consenting assignee is to supply to Council on or before the nominated day of each month for the duration of the development consent for the development's operation, the records of the transported material.

Council, upon receipt of such records will, as soon as it can conveniently do so, issue to the application (or assignee) an invoice for the Section 94 contribution amount to be paid to Council within fourteen days of the date of invoice. Council will, by condition of consent, retain the right to inspect the original records relating to the transport of imported material to and export of extracted or processed material from a development.

Original records that may be requested for inspection include:

- a) The extraction site/zone from which material was extracted and/or processed;
- b) Date and time of import/export/transport of material to/from a development;
- c) Monthly quantity and nature of material imported/exported/transported to/from a development;
- d) Daily number and type (including registration number) of laden trucks and/or trailers;
- e) Monthly payment date and amount of Section 94 contributions made Council.

All Traffic Generating Development operators will be expected to keep all necessary information to verify the above matters. Council's inspection of original records will be request by way of prior written notice.

### **B10. Deferred / Periodic Payments**

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

- a. Compliance with the provisions of this Plan is unreasonable or unnecessary in the circumstances of the case;
- b. 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;
- c. Where the application intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution and Council and the application have a legally binding agreement for the provision of the works or land dedication;
- d. There are circumstances justifying the deferred or periodic payment of the contribution.

If Council does decide to accept deferred or periodic payment, Council may require the application to provide a bank guarantee by a bank approved by Council for the full amount of the contribution or the outstanding balance on condition that:

- a. The bank guarantee 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;
- b. The bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than twelve (12) months from the provision of the guarantee or completion of the work;
- c. 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;
- d. 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;
- e. Where banks guarantee has been deposited with Council; the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

## B11. Contributions 'in-kind' and material public benefits

The Council may accept and offer by the applicant to provide and 'in-kind' contribution (i.e. the applicant completes part of all of work(s) identified in this plan) or through provision of another material public benefit in-lieu of the applicant satisfying its obligations under this plan.

Council may accept such alternatives in the following circumstances:

- a. The value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan;
- b. The standard of the works is to Council's full satisfaction and nominated standard;
- c. The provision of the material public benefit will not prejudice the timing or the manner of the provisions of public facilities included in the works program.

The value of the works to be substituted 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, an independent qualified engineer who is eligible as a member of Engineers Australia, or a person who can demonstrate equivalent qualifications.

Council will require the applicant to enter into a written agreement for the provision of the works.

Acceptance of any such alternative is at the sole discretion of the Council. Council may review the valuation of works or land to be dedicated, and may seek the services of an independent person to verify their values. In these cases, all costs and expenses borne by the Council in determining the value of the works or land will be paid for by the applicant.

## B12. Review of contribution rates

To ensure that the value of contributions are not eroded over time contributions will be indexed annually by the Consumer Price Index (CPI), all Groups Sydney (the index).

For changes to the index, the contribution rates within the plan will be reviewed on an annual basis in accordance with the following formula:

$$\$C_A + \frac{\$C_A \times ([Current\ Index - Base\ Index])}{[Base\ Index]}$$

Where

$\$C_A$  is the contribution at the time of adoption of the plan expressed in dollars;

Current Index is the CPI as published by the Australian Bureau Of Statistics(ABS) current at the time of review of the contribution rate;

Base Index is the CPI as published by the Australian Bureau Of Statistics(ABS) at the date of adoption of this Plan which is 177.6

Note: In the event that the Current Index is less than the previous index, the current index shall be taken as equal to the previous index.

### **B13. Section 94A and Planning Agreements**

In accordance with Division 6 of the EP&A Act, Developer Contributions can be made through Planning Agreements or Contribution Plans.

Guyra Council also operates under a S94A Contributions Plan for developments other than 'Traffic Generating Development' (see section B8). Where it is ambiguous as to which plan applies, Council will make a determination based on the principle activities of the development in relation to the effects of Heavy Vehicles. Where there is a significant and outgoing input from Heavy Vehicles, this section 94 plan will generally prevail.

### **B14. Administration**

Management is essential if the desired outcomes of this Plan are to be achieved in a timely and affordable manner, and to meet the requirements of the s94 Regulations. Constant supervision and management will be required over a number of years. The recovery of these costs is required by Council and is set at a 5% of the contribution payable. This rate will be reviewed at the 1<sup>st</sup> of July each year.

### **B15. Cross Boundary Contributions**

Section 94C of the EP&A Act allows adjoining Councils to require a contribution from developers for the provision of public amenities and services as a consequence of development. This will require that each road in each Council area to be calculated separately in accordance with this plan and the contribution for the section of road within the Council area to be collected by the relevant Council. This will be clearly defined in a condition of development consent.

### **B16. Pooling of Contributions**

This plan expressly authorises monetary s94 contributions 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 reviewed regularly through Councils Asset Management Plans and the current prevailing conditions.

### **B17. Savings and Transitions 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.

## Part C - Strategy Plans

### C.1 Traffic Generating Developments

Traffic Generating Development typically causes and exacerbates the deterioration of the road surfaces. Council prior to development could have budgeted to maintain the road at a certain level of service. As a result of the development there is a need for continual and considerable expenditure by Council to maintain, repair and, where necessary, prematurely reconstruct the roads.

For all road pavements, performance is primarily influenced by the heavy end of the traffic spectrum. No account need be taken of cars and light commercial vehicles as far as loadings are concerned. Austroads - 'Pavement Design - A Guide to the Structural Design of Road Pavements' defines vehicle classes. Vehicle Classes 3 - 12 are defined as heavy vehicles for the purposes of this plan. The term 'Traffic Generating Development' is referring to these heavy vehicles.

### C.2 Council's Contribution Methodology

Guyra Shire Council covers a wide area and variable conditions. With such variable conditions and wide range of potential industries, the application of variable conditions over time has been problematic. With a range of potential haulage routes for heavy vehicles, a simple quantity based contribution rate is considered appropriate. With this known contribution, any potential developer will be aware of this cost and can pass the cost through to the end user as seen fit.

### C.3 Method of Measurement

With a volume based contribution rate, Council will independently monitor the contributions based on traffic classifier counts conducted at or near the gate(s) of the developments. This will enable a verification of weighbridge and other documentation provided.

### C.4 Contributions Methodology

Council expends a significant of money on the maintenance and construction of roads throughout the shire. Below is a summary of those overall costs varying over the last few years.

#### Expenditure on Roads

Road Type (Incl bridges)	Length (km)	2006/2007	2007/2008	2008/2009	2009/2010
Sealed Local	304.2	\$1,008,442	\$913,388	\$948,785	\$1,135,560
Unsealed Local	537.3	\$780,468	\$726,439	\$962,388	\$1,150,050
Regional	123.5	\$707,181	\$777,848	\$986,152	713,000
<b>Totals</b>	<b>965</b>	<b>\$2,496,091</b>	<b>\$2,417,675</b>	<b>\$2,897,325</b>	<b>\$2,998,610</b>

Across all roads, the average cost per km is \$2800 per km per year for maintenance and reconstruction. In 2009/2010 the costs were \$3107 per km. This latest cost of \$3107 per km will be adopted as the base figure given continually rising costs of production.

While these costs are averaged over the network, other factors such as construction standards and road width create variations from site to site. A key assumption of this methodology is that where the unit costs may be higher for reconstruction, the cumulative effects from heavy vehicles will be less due to a typically greater construction standard. When combined with variations in haulage route and ground conditions during haulage, this overall average method is considered applicable.

### Pavement Design Life

The Austroads pavement design manual provides the theory and mechanisms behind flexible pavement design. Typically a pavement is design for a 20 year period. Based on traffic classification, the typical design traffic for roads within Guyra Council area is between 1 to 5 x 10<sup>5</sup>. This provides for typical annual loadings on haul roads of 15,000 ESA's/year.

This equates to whole of life costs of the road at(\$3107/15000) \$0.207 per ESA per km road travelled. This is based on Councils current maintenance and construction regime.

As calculated in the (referenced) Gwydir Council S94 Plan, the payload of a truck is equivalent to 4.66 tonnes per ESA. Therefore based on these whole of life costs, each tonne of payload carried per km of road is equivalent to an additional (\$0.207/4.66) \$0.044 road life consumed.

### Haulage Distance

To provide equity across all areas of the Council and to provide a flat rate levy across all developments, a uniform nominal haulage distance is considered appropriate to apply to all developments. This nominal haulage distance provides for:

- haulage of the product to its end point
- intermediary points within the shire for redistribution
- inwards movements of unladen heavy vehicles
- inwards movement of other related heavy vehicles
- economic haulage lengths

Haulage lengths for existing traffic generating developments within Guyra Shire area vary from 70km to 5km with an average of approximately 20km. Distances between Guyra and other 'localities' in the Shire are calculated at an average of 25km. A generally accepted economic haul distance for natural gravels is 15km, one way. With consideration of other associated traffic movements and redistribution of products, a nominated haul distance of 20km is considered an appropriate average. This haulage distance accounts for haulage of product of lesser value such as natural gravels, which are price sensitive. The haulage of 'value added' products, being less price sensitive to haulage distance, this is less influential factor.

The levy applicable is therefore calculated at:

Whole of life road costs consumed by each heavy vehicle is \$0.044 per tonne, per km hauled which over the nominated 20km average haul distance provides for a levy payable of (\$0.044 x 20) **\$0.88 per tonne of product leaving the site.**

## C.5 Nominated Works

With a volume based contribution rate, Council nominated works would be apportioned as required to locations where the greatest need exists. All roads within the shire may require these works, subject to the existence of traffic generating developments. The map below shows the area of Guyra Shire Council.

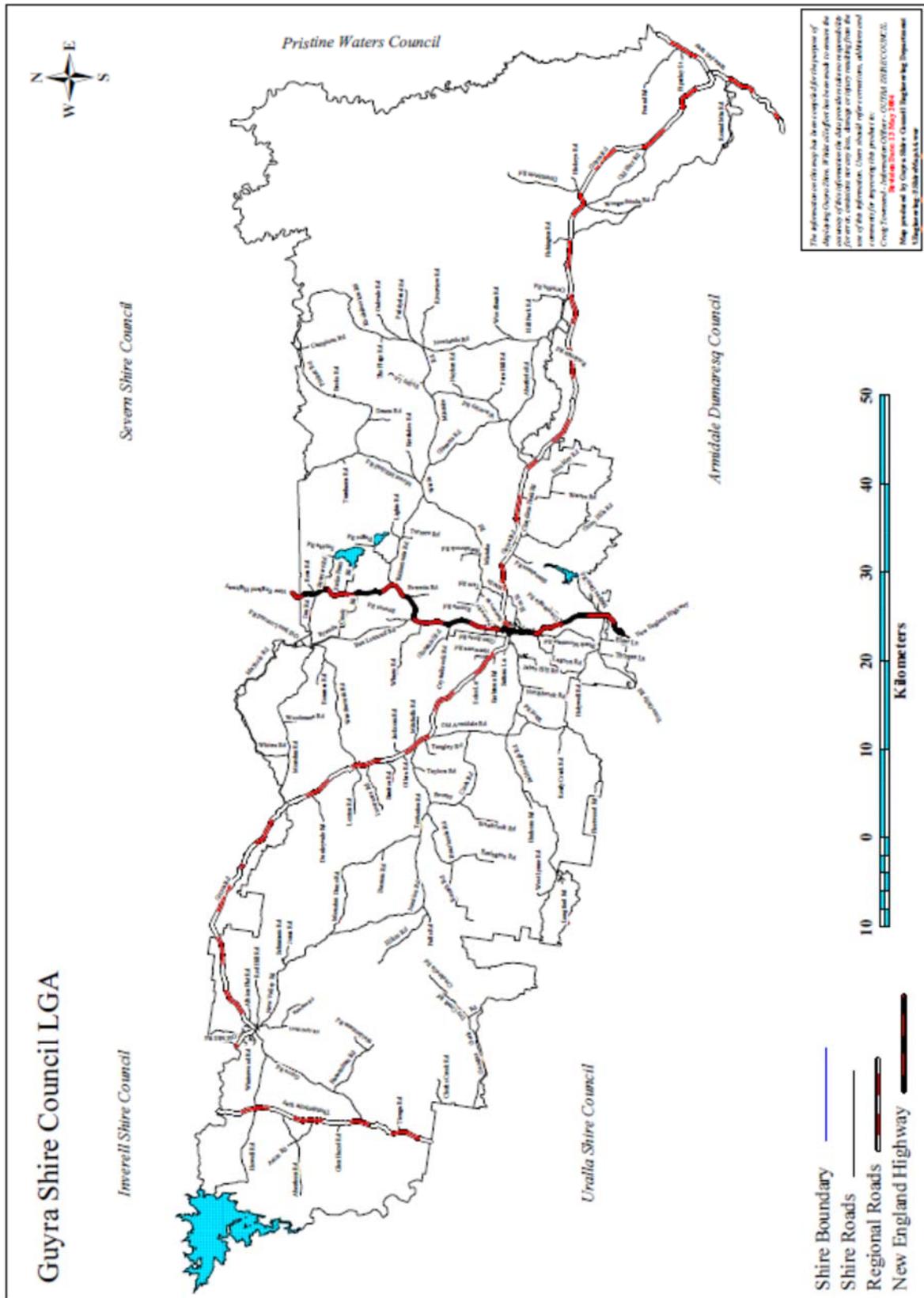
Nominated typical collector roads which are anticipated to experience the greatest effects of the heavy vehicle movements are also shown below along with the current deficiencies experienced. This is an indicative, non-exhaustive list.

Road Name	Total Length (km)	Common Deficiencies
Baldersleigh Road	31.2	Patch Failure, Shove, Gravel
Tenderden Road	11.7	Patch Failure, Width
Wards Mistake Road	36.0	Patch Failure
Moredun Road	20.2	Patch Failure
Ben Lomond Road	11.9	Patch Failure, Rutting
Inn Road	6.5	Patch Failure, Width
Black Mountain Road	11.4	Patch Failure, Rutting
Guyra Road	98.8	Patch Failure, Rutting
Aberfoyle Road	23.5	Patch Failure,
Thunderbolts Way	24.7	Patch Failure
Mount Mitchell Road	15.6	Patch Failure, Gravel, Width
Tubbamurra Road	11.7	Patch Failure, Rutting, Width
Howell Road	18.0	Patch Failure, Width
Old Armidale Road	11.9	Gravel, Patch Failure
Falconer Road	6.3	Rutting, Patch Failure
Old Mill Road	4.2	Patch Failure, Width

The current unit rates are applicable to rectify the above deficiencies to which the levy would be applied.

Works Type	Rate	Per
Heavy Patching	\$50	Cubic Metre
Rehabilitation	\$200,000	km
Shoulder Widening	\$75,000	Shoulder km
Initial Sealing	\$350,000	km
Drainage Improvements	\$30	Cubic Metre
Gravel Resheeting	\$20,000	km

## C.6 Map of Affected Area



## Part D - References

- Development Contributions - Practice Notes, July 2005, Department of Planning
- Gwydir Shire Council - Section 94 Development Contributions Plan No 1 - traffic generating Development
- Austroads - Guide to Pavement Technology, Part 2 Pavement Structural Design