

# City of Wagga Wagga

## S94A Levy Contributions Plan 2006

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**WAGGA  
WAGGA**  
CITY COUNCIL

Prepared on behalf of the Council by:

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City of Wagga Wagga  
S94A Levy Contributions Plan 2006

## PART 1 Administration and operation

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

This Plan is called *City of Wagga Wagga s.94A Levy Contributions Plan 2006*.

### 2 When does this plan commence?

This Plan commences on the date public notice of the Council's approval of this Plan is given in a newspaper circulating in the Council's area.

### 3 Purposes of this plan

The purposes of this Plan are:

- to authorise 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, 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 a condition authorised by this Plan.

### 4 What does Section 94A of the Act provide?

Section 94A of the Act provides as follows:

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### **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.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
  - (a) *the Minister, or*
  - (b) *a development corporation designated by the Minister to give approvals under this subsection.*
- (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 Wagga Wagga local government area.

## 6 Development to which this Plan applies

This Plan applies to development on land to which this Plan applies that requires development consent or a complying development certificate under the Act except:

- development, other than the subdivision of land, where a condition under s94 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 and the purpose for which that condition was imposed is a purpose towards which a levy under this Plan may be applied, or

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- development involving alterations and additions to, or the rebuilding of, a building used for residential purposes or a building that is used for a purpose that is ancillary or incidental to such a purpose, unless the development involves an enlargement, expansion or intensification of the use of the building or the land on which the building is, or is proposed to be, situated.

### **7 Relationship to other contributions plans**

Subject to the Act, this Plan does not affect any other contributions plan that has been approved by the Council and is in force.

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

Subject to the Act and to any direction of the Minister under section 94E of the Act which is in force from time to time, this Plan authorises 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 of 1% of the proposed cost of carrying out the development

If a Ministerial direction under s94E is in force, this Plan authorises the Council to grant consent to development subject to a condition which is in accordance with that direction.

Any Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this Plan.

### **9 Certifying authority must require payment of the levy as a condition of issuing a complying development certificate**

Subject to the Act and to any direction of the Minister under section 94E of the Act which is in force from time to time, this Plan requires a certifying authority (the Council or an accredited certifier) to issue a complying development certificate in respect of development to which this Plan applies subject to a condition requiring the applicant to pay to the Council a levy of 1% of the proposed cost of carrying out the development.

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If a Ministerial direction under s94E is in force, this Plan authorises the certifying authority to issue a complying development certificate subject to a condition which is in accordance with that direction.

Any Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this Plan.

### 10 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,*

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- (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.*

### 11 How is the proposed cost of carrying out development indexed?

Pursuant to clause 25J(4) of the Regulation, the proposed cost of carrying out development is to be indexed to reflect quarterly variations in the *Consumer Price Index All Group Index Number for Sydney* between the date the proposed cost was determined by the Council 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:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

where:

**IDC** = the indexed development cost

**ODC** = the original development cost determined by the Council

**CP2** = is the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of payment.

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**CP1** = is the Consumer Price Index, All Groups, Sydney as published by the ABS in respect of the quarter ending immediately prior to the date of imposition of the condition.

### **12 Cost estimate report must accompany a development application or application for a complying development certificate**

A development application or an application for a complying development 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 report is required:

- where the estimate of the proposed cost of carrying out the development is greater than \$100,000, a cost estimate report in the form of Schedule 2.

### **13 Who may provide a report for the purposes of clause 12 of this Plan?**

For the purpose of clause 25J(2) of the Regulation, an person who, in the opinion of the Council either generally or in a particular case, is suitably qualified to provide an estimate of the proposed cost of carrying development may do so for the purposes a report referred to in clause 12. Council encourages the use of a Quantity Surveyor or industry recognised building cost indicators in the preparation of estimates for the purpose of clause 25J(2) of the Regulation, Such Building cost indicators are to be recognised by the Australian Institute of Building and include but is not limited to Reed Construction Data Publications.

The Council may, at the applicant's cost, engage a person to review a report submitted by an applicant in accordance with clause 12.

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### **14 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 one or more 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 included in Schedule 1.

### **15 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 in accordance with the staging set out in that Schedule.

### **16 Pooling of levies**

This Plan authorises money paid in accordance with the conditions of development consents imposed under this Plan to be pooled with money paid in accordance with the conditions of development consents imposed under this Division 6 of Part 4 of the Act (other than under Subdivision 4 of that Division) in respect of development within the Council's area and applied progressively towards the various purposes for which such conditions were imposed.

### **17 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 any 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 Regulation.

### **18 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



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

### 19 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.

### 20 Are there alternatives to payment of the levy?

If an applicant for development consent seeks to make a contribution towards the provision of public facilities to meet development other than by payment of a levy or development contributions, 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 is 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 authorised by this Plan requiring payment of a levy.

In assessing the applicant's offer, the Council will have regard to any relevant requirements of the current Practice Note issued by the NSW Government in the *Revised Development Contributions Manual* (DIPNR 2005) and such other matters as the Council considers relevant in the circumstances of the case.

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

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If development consent has been granted to the carrying out of development subject to a condition authorised 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 authorised by this Plan requiring payment of the levy.

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

If an applicant does not wish to pay a levy or development contributions 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

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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.

Applicants should refer to the Council's *Policy on Planning Agreements*, which has been prepared having regard to the Practice Note on Planning Agreements contained in the *Revised Development Contributions Manual* (DIPNR 2005).

### 21 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 the Council of the City of Wagga Wagga,

**development contributions** means a development contribution required to be paid by a condition of development consent imposed pursuant to section 94 of the Act,

**levy** means a levy under s94A of the Act authorised by this Plan,

**Minister** means the Minister administering the Act,

**public facility** means a public amenity or public service,

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*,

## **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. That relationship is established through current demographic information.

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
- Change of use
- Signage

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

- the population projections undertaken by the Council, involving a review of major development and rezoning proposals involving land in the Wagga Wagga local government area as at April 2006 (including appraisal of those projects likely to proceed over the next ten years), an assessment of remaining residential lot capacity of all suburbs (assuming continuation of current zonings and/or Council's planning policies) and assessment of historic lot and dwelling production rates, which concluded that the likely rate of population growth for the City of Wagga Wagga in the next ten years was approximately 1 per cent per annum;
- the likely population growth will require the provision of additional public facilities to meet additional demand; and

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- the likely population growth will diminish the enjoyment and standard of public facilities for the existing population unless additional facilities are provided to meet the additional demand.

Council is committed to promoting sustainability across all areas of the community. Council defines this as delivering, social, cultural and environmental systems that operate in harmony for the benefit and wellbeing of all residents. The objective is to enable residents to enjoy a good quality of life in an active and vibrant community. Council's role in the provision of community and recreation facilities and civil infrastructure all contribute to the collective and individual wellbeing. Council aims to provide access and equity to all services and facilities for all members of the community.

The s94A levy will enable Council to provide high quality and diverse public facilities to meet the expectations of the existing and new residents of the City of Wagga Wagga.

The additional public facilities to be provided to meet the expected future development are set out in Schedule 1.

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Schedule 1

(Clause 14)

## Works Schedule

**A. Completed works for which contributions will be recouped**

Nil

**B. Works in progress for which contributions will continue to be levied**

Nil

**C. New public facilities to be funded through s94A levies**  
**Open space and recreation facilities**

MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATED STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
	Murrumbidgee River Walkway/Reserves				
OS1 94A	– Stage 1	\$650,000	\$650,000	A	3
OS2 94A	Multi Purpose Outdoor Sports Facility	\$3,000,000	\$266,000	A	1
OS3 94A	Wagga Wagga Exhibition Centre	\$1,200,000	\$107,000	A	2
OS4 94A	Regional Playground	\$250,000	\$250,000	B	4
OS5 94A	Lake Albert Foreshore Development –	\$600,000	\$600,000	B	5

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MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATED STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
	staged				
OS6 94A	Neighbourhood Park – Koorinal	\$160,000	\$160,000	C	6
OS7 94A	Neighbourhood Park – Ashmont	\$160,000	\$160,000	C	7
OS8 94A	Neighbourhood Park – Tolland	\$160,000	\$160,000	C	8
OS9 94A	Neighbourhood Park Bourkeslands	\$160,000	\$160,000	C	9
OS10 94A	Neighbourhood Park – Mt Austin	\$160,000	\$160,000	C	10
OS11 94A	Neighbourhood Park – Lake Albert	\$120,000	\$120,000	C	11
OS12 94A	Neighbourhood Park – Forest Hill	\$120,000	\$120,000	C	12

### Community Facilities

MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATED STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
C1 S94A	Major Community Facility (Central Wagga)	\$8,500,000	\$500,000	B	1
C2 S94A	Main Street upgrade	\$800,000	\$800,000	B	2

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**Villages and rural areas**

MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATED STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
	Villages community facility upgrade				
V&R1	upgrade	\$75,000	\$75,000	C	1
	Villages parks facility upgrade program				
V&R2	program	\$90,000	\$90,000	C	2
	Villages road upgrade program				
V&R3	upgrade program	\$135,000	\$135,000	C	3

**Industrial areas**

MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATED STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
	Bomen – road and rail bridge works				
IN1	bridge works	\$5,000,000	\$3,000,000	C	1
	Hammond Avenue – drainage and road works				
IN2	works	\$400,000	\$400,000	C	2
	Dobney Avenue – drainage and road works				
IN3	drainage and road works	\$85,000	\$85,000	C	3

**Road and traffic facilities**

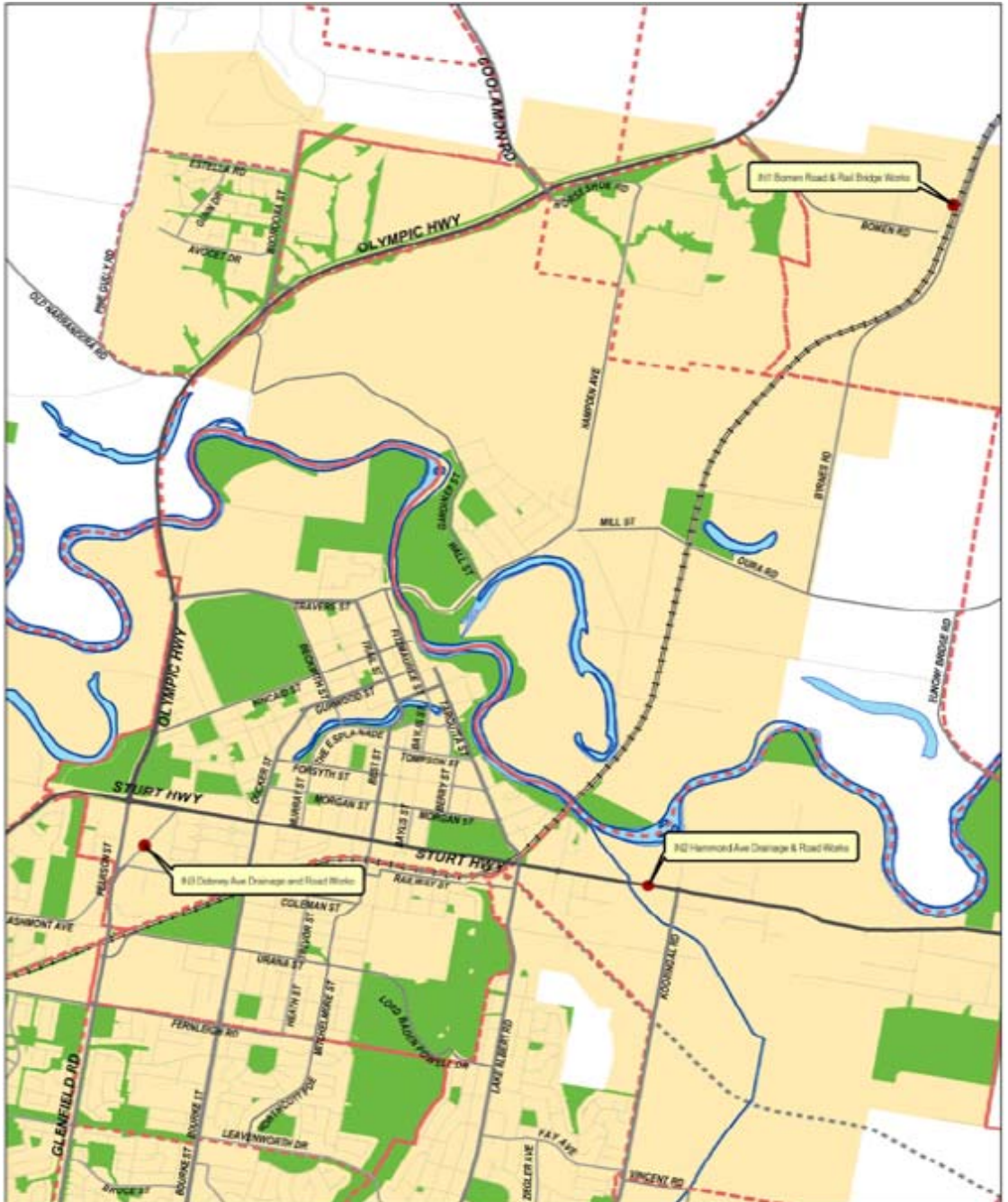
MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATE D STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
	Footpaths and cycleway reconstruction and links				
R&T1	reconstruction and links	\$150,000	\$150,000	C	5



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MAP REF	DESCRIPTION	ESTIMATED COST	s94A Contribution to estimated cost	ESTIMATE D STAGING A: 1-3 years B: 3-6 years C: 6-10 years	PRIORITY
R&T2	Street lighting Improvement program	\$150,000	\$150,000	C	4
R&T3	Red Hill Road extensions and underpass	\$4,500,000	\$300,000	A	1
R&T4	Urana Street widening	\$400,000	\$200,000	A	2
R&T5	Bruce and Bourke Street lights	\$400,000	\$200,000	C	3
R&T 6	Dunns Rd Construction	\$2,500,000	\$1,250,000	C	4

Works Map



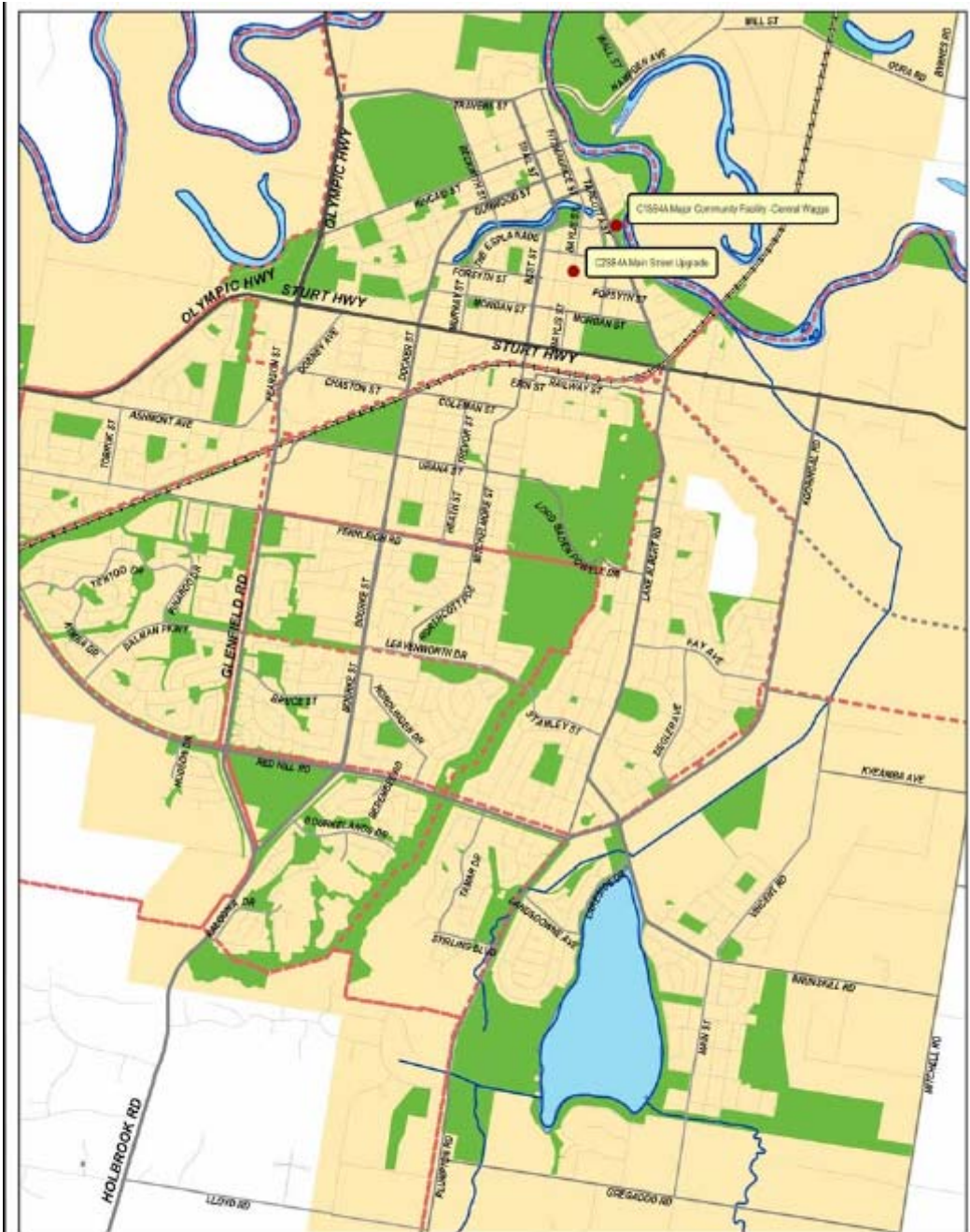
Disclaimer: This map indicates the general location of Section 94A works. They are not exact boundaries and should not be relied on such. For full information on works refer to WCC Section 94A Contributions Plan 2006 - 2016 Document.




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Date 4-08-06

**Section 94A Industrial Estates  
- Future Works**





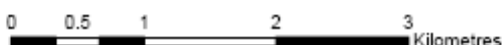
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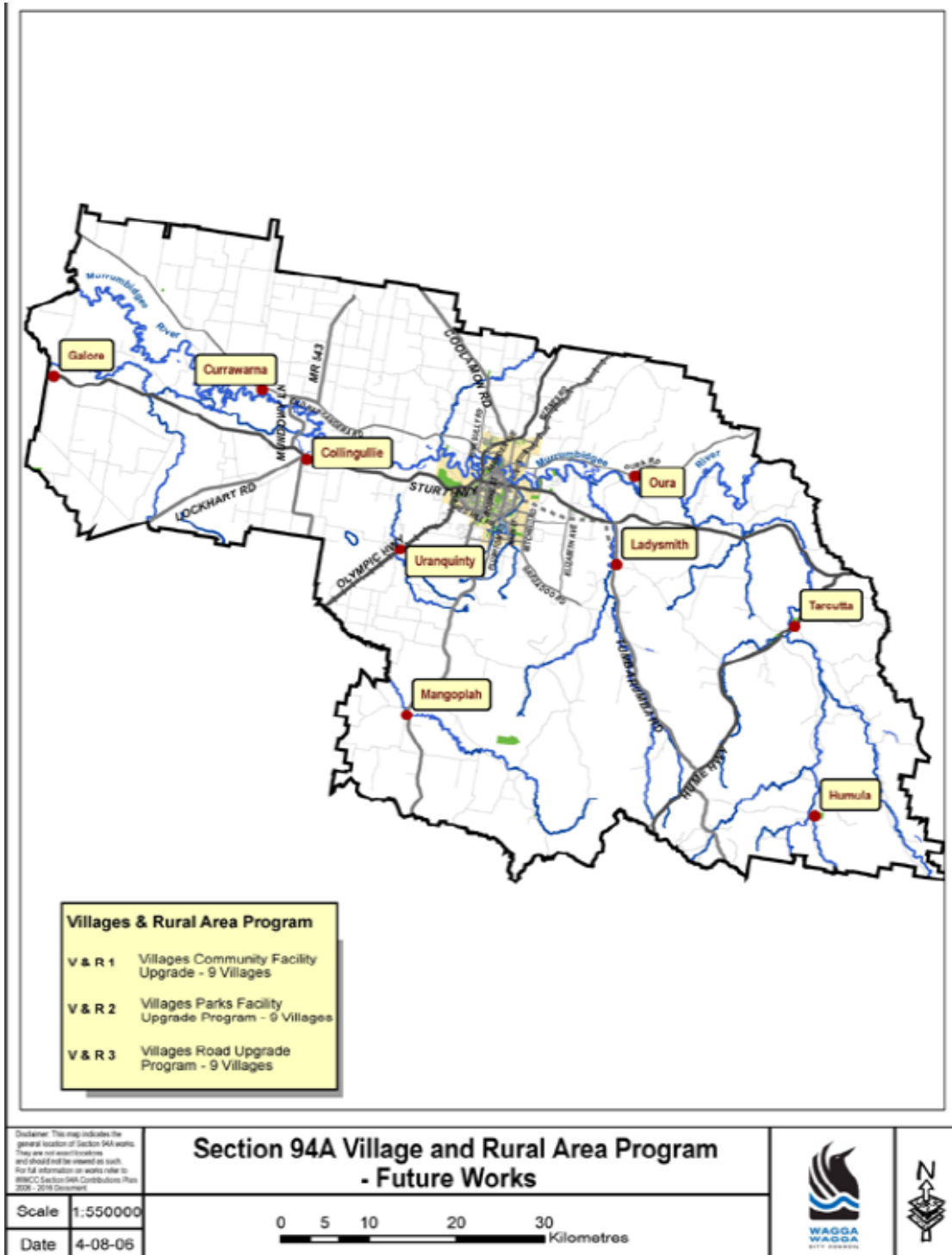
<p>Disclaimer: This map indicates the general location of Section 94A works. They are not exact locations and should not be viewed as such. For full information on works refer to WAGCC Section 94A Contributions Plan 2006 - 2016 Document.</p>		<h3>Section 94A Community Facilities - Future Works</h3>		 
Scale	1:40000			
Date	4-06-06			

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<p>Disclaimer: This map indicates the general location of Section 94A works. They are not exact locations and should not be viewed as such. For full information see notes relative to WWCC Section 94A Contributions Plan 2006 - 2010 Document.</p>		<h3>Section 94A Roads and Traffic Facilities - Future Works</h3>		 <b>WAGGA WAGGA</b> <small>MURUMBIDGEE</small>	
Scale	1:40000				
Date	4-08-06				

S94A Levy Contributions Plan



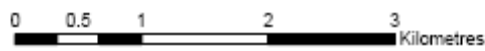
S94A Levy Contributions Plan



Disclaimer: This map shows the general location of Section 94A works. They are not exact locations and should be viewed as such. For full information on works refer to WPPCC Section 94A Contributions Plan 2006 - 2009 Document.

**Section 94A Open Space and Recreation Facilities  
- Future Works**

Scale 1:40000  
Date 4-08-06



## Schedule 2

(Clause 12)

### Cost Estimate Report

(Development Cost greater than \$100,000)

DEVELOPMENT

COMPLYING DEVELOPMENT

APPLICATION NO.

APPLICATION NO.

CONSTRUCTION

DATE

CERTIFICATE NO.

APPLICANT'S NAME:

---

APPLICANT'S ADDRESS:

---

DEVELOPMENT NAME:

---

DEVELOPMENT ADDRESS:

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TOTAL DEVELOPMENT COST	\$
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Clause 25J of the Environmental Planning and Assessment Regulation 2000 specifies the following items for inclusion / exclusion in the preparation of the Total Development Costs:

- (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:***

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- (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.*

Council encourages the use of a quantity surveyor or building cost indicators as recognised by the Australian Institute of Building for the preparation of estimates for the purpose of clause 25J(2).

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.



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

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

Position & Qualifications: \_\_\_\_\_

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

Attachment

**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.

FRANK SARTOR, M.P.,  
Minister for Planning,  
Sydney.

**SCHEDULE A**

<b>Proposed cost of the development</b>	<b>Maximum percentage of the levy</b>
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5 percent
More than \$200,000	1.0 percent