

Department of Planning  
Received  
14 JUN 2016  
Scanning Room



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Acting Director  
NSW Department of Planning and Environment  
Modification Assessments  
GPO Box 39  
SYDNEY NSW 2000  
Attention - Mr Anthony Witherdin

Your Ref: MP 09 0082 MOD I  
Our Ref: Z16/123036  
File: MP-2009/82/A ESP-100.05.020  
Date: 7 June 2016

Dear Mr Witherdin

## MP-2009/82/A MODIFICATION 1 – CALDERWOOD URBAN DEVELOPMENT PROJECT

Reference is made to your letters of 18 and 23 May 2016 seeking input into the proposed modification of the Calderwood Urban Development Concept Plan (MP-09/0082) lodged by JBA on behalf of Lend Lease.

Council **objects to the modification in the strongest possible terms.**

This most recent request from Lend Lease follows a disturbing history:

- In December 2010, the former Minister for Planning, Tony Kelly, approved the Concept Plan for the Calderwood Land Release under Part 3A. This approval was granted in the absence of any local infrastructure plans.
- The out-of-sequence Calderwood approval was contrary to the Regional Plan and was opposed at that time by Wollongong, Shellharbour and Kiama Councils on this basis.
- In April 2012, the Planning Assessment Commission refused consent to Stage 1A of the land release. The Planning Assessment Commission's refusal is made more significant in the context that the Part 3A Concept Plan had been approved.
- The Land and Environment Court overturned the Planning Assessment Commission's refusal and granted consent to Stage 1A of the land release. In 2013 the Land and Environment Court was required to consider and determine an appropriate Section 94 development contribution for both Wollongong City Council and Shellharbour City Council given that no local infrastructure plans had been developed.
- The Court's determination of \$1,320 per lot in 2013 was provided in the context that:
  - The Yallah-Marshall Mount (West Dapto Stage 5) was not rezoned and future development outcomes were uncertain.
  - There was no available flood study for the Duck Creek catchment. As a consequence, flooding constraints were not properly considered in cost estimates for Marshall Mount and Yallah Roads.
  - Given the status of planning in Yallah-Marshall Mount, road upgrades were costed on the basis of this area retaining a rural (rather than future urban) land use.

Clearly, as the Department is aware, the context of the 2013 Court decision does not reflect the current infrastructure planning which has been undertaken for West Dapto and Yallah-Marshall Mount (Stage 5).

Council is still amazed that the Department supported the Lend Lease Concept Plan and rezoned the Calderwood land without an infrastructure plan in place, or an understanding of the infrastructure demands and costs associated with the development.



### **Proposed Modification 1**

It is acknowledged that Lend Lease and Shellharbour City Council have signed a Planning Agreement. However, contrary to the advice provided by JBA on page 6, the Planning Agreement does apply to land in the Wollongong City Council Local Government Area, as indicated by Schedule 8 Applicable Area of the Agreement, which depicts land in both Local Government Areas. Council remains concerned that the two parties signed a Planning Agreement that includes land within the Wollongong City Council area.

Further, the draft Planning Agreement lodged by Lend Lease with Wollongong City Council in 2014 proposed a contribution from development in both Council areas to Wollongong City Council, and addresses the proposed 4,800 lots of the total development.

The contribution amount offered by JBA/Lend Lease has not changed since the Land & Environment Court case of 2013. This is despite CPI increases and land increasing in value by some 30%. The acceptance of 5 year-old rates will immediately mean that any potential income will not meet the increased infrastructure costs.

As the JBA letter notes, Council considered and rejected the Lend Lease Planning Agreement offer in 2015, as it did not represent good value for the community. Council has prepared a draft Section 94 Plan for the Calderwood area, which is on exhibition until 28 June 2016. A copy of the Council report and draft Section 94 Plan are attached for your information.

While the value of the works has not changed, we note that JBA have amended the proposed contribution payment schedule to only relate to the proposed 800 lots within the Wollongong Local Government Area, rather than divided against the total development. The proposal is unclear as to what will be the contribution for the 801st lot or additional development beyond the estimated 800 lots. The proposal does not address what the contribution will be for additional development, such as dual occupancies that may be constructed on lots sold by Lend Lease.

Please note that the Department's Section 94E Direction of 21 August 2012 – Schedule 2 clause 14 relating to the West Dapto Release Area includes the Calderwood Urban Release Area within the Wollongong LGA. Under the Direction, Council can levy \$30,000 per lot for the 800 lots within the Wollongong LGA, which equates to \$24 million. Accordingly, Council is not going to settle for Lend Lease's \$16.8 million offer.

Council has also lodged objections with Shellharbour City Council against the development applications lodged within the Calderwood area, as the local infrastructure issues remain unresolved.

### **Local Infrastructure**

The proposed contribution to Wollongong City Council relates to two components of local infrastructure, namely roads and open space.

#### **Local Roads**

The road infrastructure component relates to Yallah Road and Marshall Mount Road. As noted by JBA the road infrastructure was considered in the 2013 Land and Environment Court case. Council does not believe that the 2013 Land and Environment Court case remains relevant to the development beyond Stage 1. As noted previously, the Court was not privy to a range of more recent information which may have altered its judgement, including:

- The development of Yallah–Marshall Mount was not considered. Yallah was regarded as a rural area, as Council had at that time not approved the draft Planning Proposal for exhibition. Council has now exhibited and endorsed a Planning Proposal to rezone the area. The Planning Proposal will be finalised when the infrastructure funding issue is resolved.
- The cumulative effect of both Yallah–Marshall Mount and Calderwood on traffic volumes and road design was not considered. Therefore a 2 lane road (not 4 lane) road design was considered.
- The Duck Creek Flood Study and Floodplain Risk Management Study and Plan were still in preparation – so the flood levels were not known, and the required bridge lengths were not known. These studies and information are now available, so more accurate designs and costings have been prepared.



- The West Dapto Section 94 Development Contribution Plan did not include a "flood access" route for Yallah-Marshall Mount.

As part of the planning for the Yallah-Marshall Mount area, Council has undertaken substantial traffic analysis and modelling. This modelling confirms the impact Calderwood will have on the local road network, including the need to widen existing roads, and construct new roads. Council has considered and modelled the road network for the Yallah-Marshall Mount area, both with and without Calderwood.

This analysis, together with the (now costed) local road designs, have been used to inform the preparation of a Draft Calderwood Development Contributions Plan. As mentioned previously, a copy of this Draft Plan is attached.

#### *Open space*

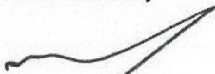
The land values associated with the open space areas, at some \$1.3 - \$3.1 million / hectare, were over inflated in 2014 and despite the increase in land values remain over inflated. JBA have indicated the land value of District Park D1 (page 8) to be \$1.383 billion. Further, the nominated areas have never been agreed to by Council, and are designed to service the Lend Lease community, rather than the broader population. Council will have the long term maintenance responsibilities for these areas, so it is important that Council can fund the maintenance, by having input into the location, size, dimensions and embellishment of the areas. In addition, the nominated locations do not have regard to the proposed open space in the surrounding areas.

An open space buffer around the historic Marshall Mount House is supported, however the appropriate size and orientation of the curtilage has not been determined.

I reiterate that Council objects to the proposed modification and I will be seeking a meeting with Ms Carolyn McNally, the Secretary of the Department, as a matter of urgency, to enable Council to further discuss these concerns in person.

Should you require further information please contact Council's Director Planning & Environment – Future City and Neighbourhoods, Mr Andrew Carfield on 4227 7284.

Yours faithfully



David Farmer  
**General Manager**  
Wollongong City Council  
Telephone: (02) 4227 7111

*Attach*



## **COUNCIL RESOLUTION EXTRACT FROM MINUTES 14 SEPTEMBER 2015**

### **DISCLOSURE OF INTERESTS**

Councillor Martin declared a non-significant, non-pecuniary conflict of interest in Items 6 and 7 insofar as she is employed by the Department of Planning and Environment. However, Councillor Martin advised that she does not work on Wollongong-based matters.

### **CALL OF THE AGENDA**

- 124 COUNCIL'S RESOLUTION** - RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Connor that the staff recommendations for Items 2, 7, 11 to 13, and 15 to 22 inclusive, be adopted as a block.

### **ITEM 7 - CALDERWOOD DRAFT PLANNING AGREEMENT**

The following staff recommendation was adopted as part of the Block Adoption of Items (refer Minute Number 124).

#### **COUNCIL'S RESOLUTION –**

- 1 The developer be advised that Council is not prepared to accept their current Calderwood draft Planning Agreement offer.
- 2 A draft Section 94 Development Contribution Plan be prepared for the Calderwood Urban Release Area based on the infrastructure costs identified in the report, and exhibited for a minimum period of 28 days. The exhibition include advice that the Wollongong Section 94A Development Contribution Plan would be repealed if the new Plan is made.



## ITEM 7 CALDERWOOD DRAFT PLANNING AGREEMENT

The Calderwood Urban Release Area spans across the Shellharbour City Local Government Area (593 hectares) and Wollongong City Local Government Area (107 hectares). The land was rezoned in 2010 by the previous State Government, to permit urban development through State Environmental Planning Policy (Major Developments) 2005. On 23 September 2013, Stage 1 of the development for 231 lots in Shellharbour was approved by the Land and Environment Court.

The proponents have signed a Planning Agreement with Shellharbour City Council concerning the provision of local infrastructure and have requested Wollongong City Council to enter into a Planning Agreement for the provision of local parks and a contribution towards the upgrading of Marshall Mount Road and Yallah Road.

It is recommended that Council not accept the current offer, and prepare a draft Section 94 Development Contribution Plan for the Calderwood Urban Release Area.

### RECOMMENDATION

- 1 The developer be advised that Council is not prepared to accept their current Calderwood draft Planning Agreement offer.
- 2 A draft Section 94 Development Contribution Plan be prepared for the Calderwood Urban Release Area based on the infrastructure costs identified in the report and exhibited for a minimum period of 28 days. The exhibition include advice that the Wollongong Section 94A Development Contribution Plan would be repealed if the new Plan is made.

### ATTACHMENTS

- 1 Calderwood Location map
- 2 Proposed Yallah Marshall Mount Road network

### REPORT AUTHORISATIONS

Report of: Renee Campbell, Manager Environment Strategy and Planning  
Authorised by: Andrew Carfield, Director Planning and Environment – Future, City and Neighbourhoods

### BACKGROUND

The Calderwood Urban Release Area was historically in the Shellharbour City Local Government Area, around the locality of Calderwood. However, the Urban Release Area was later expanded during the State Government's major project approval process to include land that straddles the local government boundary, which comprises 107 hectares of land in the Wollongong Local Government Area at Marshall Mount (Attachment 1).



In 2009, Calderwood was declared a State Significant Project under the State Environmental Planning Policy (SEPP) (Major Development) 2005. In January 2011, the Calderwood Urban Release Area was included as a State Significant Site in Schedule 3 – Part 28 of the SEPP. The SEPP rezoned the land to permit urban development, and removed the planning controls from both Councils local planning instruments. The SEPP applies to 107 hectares of land in Wollongong and 593 hectares in Shellharbour City Council area (Attachment 1).

The rezoning of the precinct, and its inclusion in the SEPP, was not supported by either Wollongong or Shellharbour Councils as:

- the proposal was inconsistent with the Department of Planning's Illawarra Regional Strategy (2007);
- the precinct contains valuable agricultural land on the floodplain;
- the precinct has significant flood constraints;
- the precinct has a high scenic value;
- the land within Wollongong was not identified for development as part of the West Dapto investigations due to its constraints and scenic values;
- development would impact on infrastructure provision and servicing of West Dapto, Tullimbar and other release areas;
- the rezoning removed local planning control by the Councils; and
- development would impact on the localities of Marshall Mount and Yallah, especially Marshall Mount Road.

Between 14 April 2010 and 11 June 2011, the NSW Department of Planning and Infrastructure exhibited:

- Concept Plan for the entire development (MP-2009/82) (similar to a master plan) proposing 4,800 dwellings; and
- Project Application for Stage 1, proposing the development of 320 residential lots within the Shellharbour City Council area.

On 8 December 2010, the NSW Department of Planning and Infrastructure approved the Concept Plan (MP-2009/82), with amendments. Shellharbour City Council, with financial support from Wollongong City Council, lodged a Class 4 Action in the Land and Environment Court challenging this determination. In February 2012, the Court upheld the Concept Plan and it remains in place.

On 14 September 2011, the NSW Department of Planning and Infrastructure submitted a report to the Planning Assessment Commission recommending that the project approval for Stage 1 be approved (MP-2009/83). Council made representations to the Planning Assessment Commission at its public meeting on 27 October 2011, and in further submissions and meetings. On 17 April 2012, the Planning Assessment Commission refused the Project Application. In summary, the Planning Assessment Commission found that:



- *The proposal was inconsistent with the Illawarra Regional Strategy and will adversely impact on the orderly development of land in the Illawarra Region;*
- *the proposal will adversely impact on the planned provision of key social and physical infrastructures to service the area; and*
- *the proposal did not adequately demonstrate that:*
  - *filling in high hazard flood areas is a sustainable approach to providing land for residential purposes;*
  - *the significant landform modifications will not adversely affect flood behaviour;*
  - *the development will not adversely affect the environment;*
  - *the proposal will not significantly increase the requirements for emergency services in time of flood; and*
  - *the proposal is unlikely to result in any substantial long-term social and economic impacts to the community as a result of increased flood levels.*
- *local infrastructure contributions have not been adequately dealt with under the provisions of a comprehensive Section 94 contributions strategy and plan;*
- *not all relevant information supporting the proposal was exhibited to enable meaningful public participation; and*
- *there was no publicly exhibited and endorsed Development Control Plan for the area to guide development.*

On 31 May 2012, the developer lodged an appeal to the Land and Environment Court against the Planning Assessment Commission refusal.

On 25 June 2012, Council resolved to prepare a draft Planning Proposal to remove Calderwood from the Major Projects SEPP and apply the Wollongong LEP 2009 and zone the land from the urban zones back to rural and environmental protection zones. The Planning Proposal was refused by the NSW Department of Planning through the Gateway process.

On 23 September 2013, the Court upheld the developer's appeal, and a modified Stage 1 development for 231 lots was approved. These lots are required to pay a Section 94 contribution of \$2,891.10 per lot to Shellharbour City Council and \$1,320 per lot to Wollongong Council (a total of \$304,920).

On 11 November 2013, Wollongong City Council and Shellharbour City Councils requested the Minister for Planning to declare Calderwood an Urban Release Area for the purpose of capping Section 94 Development Contributions, similar to West Dapto. The (then) Director-General of the (then) Department of Planning and Infrastructure responded on 4 March 2014 advising that:

*My agency will soon make recommendations to the Minister for Planning and Infrastructure, the Hon Brad Hazzard MP, on the way forward for local infrastructure contributions at Calderwood. Part of those recommendations will be advice on the application of the local infrastructure contribution cap to Calderwood.*

No further advice has been received from the Department.



Subsequently, in 2014 Shellharbour City Council exhibited a draft Section 94 Plan to which the developer objected. The developer and Shellharbour City Council then signed a Planning Agreement for development contributions to Shellharbour City Council. The agreement also applies to land within the Wollongong LGA, although Wollongong City Council is not a party to the agreement. The Shellharbour agreement requires a contribution (no matter whether in Wollongong or Shellharbour) of between \$3,310 to \$4,810 per dwelling to Shellharbour City Council. The developer will also construct the road network, parks, sporting facilities and a community facility within the Shellharbour City Council area.

On 25 November 2014, consultants for the developer lodged DA-2014/1480 with Council for the consolidation and re-subdivision of 5 lots within the Wollongong part of Calderwood into 2 lots and 1 super lot. The 5 lots straddle the LGA boundary and are partially in both Council areas.

The application was refused on 10 June 2015. The application included a request to enter into a Planning Agreement. The draft Planning Agreement has been progressed separately to the Development Application and requires a determination from Council.

Lend Lease have now lodged DA-2015/149 with Shellharbour City Council for Stage 2A comprising 234 lots. Shellharbour City Council have sought advice from Wollongong City Council as to how the local infrastructure contributions payable to Council should be considered. The Land and Environment Court judgement applied to Stage 1 although could be used to guide contributions for future stages. There is a risk that Stage 2A could be approved without any local infrastructure contribution condition relating to Wollongong. Based on the Stage 1 conditions this equates to \$308,880.

In summary, the current status of the land and proposed urban release project is:

- Calderwood is zoned under the SEPP (Major Developments) 2005, and permits urban development;
- The Concept Plan (MP-2009/82) (similar to a master plan) is approved;
- The Project Approval for Stage 1 (231 residential lots) within Shellharbour City Council LGA has been approved;
- The developer and Shellharbour City Council have signed a Planning Agreement for development contributions to Shellharbour City Council, covering the entire release area (including Wollongong LGA); and
- Shellharbour City Council is currently assessing DA-2015/149 for Stage 2A comprising 234 lots.

## PROPOSAL

A Planning Agreement is a voluntary agreement between Council and a developer which specifies the contribution a developer will make towards a public purpose in lieu of the Section 94/94A Contribution Plan applying to the land. The planning agreement can specify a monetary contribution, the works to be undertaken, the dedication of land, or a combination of contributions.



As part of DA-2014/1480 for the consolidation and re-subdivision of 5 lots within the Wollongong part of Calderwood into 2 lots and 1 super lot, Lend Lease have submitted a draft Planning Agreement for Council's consideration. The draft Planning Agreement is the same proposal that was discussed with Councillors at a briefing session in 2013. The draft Planning Agreement proposes the following local infrastructure within Wollongong:

	Size (ha)	Design & Construct	3 Year Maintenance	Land Cost	Total
<b>Open Space</b>					
Local Park 1	0.3	\$150,000	\$16,000	\$924,000	\$1,090,000
Local Park 2	0.3	\$150,000	\$16,000	\$924,000	\$1,090,000
Local Park 3	0.3	\$150,000	\$16,000	\$924,000	\$1,090,000
District Park "creek"	1	\$750,000	\$16,000	\$1,383,200	\$2,149,200
City Park "heritage"	1.3	\$985,000	\$46,000	\$4,034,800	\$5,065,800
<b>Sub total</b>	<b>3.2</b>	<b>\$2,185,000</b>	<b>\$110,000</b>	<b>\$8,190,000</b>	<b>\$10,485,000</b>
<b>Roads</b>					
Marshall Mount Road		\$5,702,400			\$5,702,400
Yallah Road		\$633,600			\$633,600
<b>Sub total</b>		<b>\$6,336,000</b>			<b>\$6,336,000</b>
<b>Total</b>		<b>\$8,521,000</b>	<b>\$110,000</b>	<b>\$8,190,000</b>	<b>\$16,821,000</b>

It is noted that the three local parks have a land acquisition value of \$3.08 million/hectare which appears excessive. Council's valuers have advised that the englobo rate for urban land is at \$0.5 million/hectare. There is no detailed design for the parks or roads.

For the open space component, a contribution of \$2,184.38 per dwelling is proposed (\$10.485 million / 4,800 lots within both Council areas).

For the local roads component, the following schedule is proposed (taking into account the Court judgment), which averages at \$1,350 per lot.

	No Lots	Rate	Contribution
1st 231 dwellings (L&E Court approved)	231	\$1,320	\$304,920
232-1000 dwellings	769	\$500	\$384,500
2nd 1000 dwellings	1000	\$928	\$928,000
3rd 1000 dwellings	1000	\$1,356	\$1,356,000
4th 1000 dwellings	1000	\$1,783	\$1,783,000
Any further dwellings	800	\$2,211	\$1,768,800
<b>Total</b>	<b>4800</b>		<b>\$6,525,220</b>
	Average Rate	\$1,350	



In total, an average contribution of \$3,438.67 per lot is proposed, which equals \$16.5 million for the entire 4,800 lot development.

The Land and Environment Court judgement for Stage 1 considered in detail the traffic volumes, road standards and costing for Yallah Road and Marshall Mount Road. The Court preferred Council's traffic analysis, but the developer's road and bridge designs and costings. The proponent has used the Stage 1 judgement as the basis for contribution funding for all future stages.

From Council officers' view there are a number of shortcomings with the Court judgement:

- The development of Yallah – Marshall Mount was not considered. Yallah was regarded as a rural area, as Council had at that time not approved the draft Planning Proposal for exhibition;
- The cumulative effect of both Yallah – Marshall Mount and Calderwood on traffic volumes and road design was not considered. Therefore a 2 lane road (not 4 lane) road design was considered;
- The Duck Creek Flood Study and Floodplain Risk Management Study and Plan were still in preparation – so the flood levels were not known, and the required bridge lengths were not known; and
- The West Dapto Section 94 Development Contribution Plan had not included a "flood access" route for Yallah – Marshall Mount.

As part of the finalisation of the draft Planning Proposal for Yallah-Marshall Mount preliminary concept designs for Yallah Road (including realignment at the M1 Albion Park bypass), Marshall Mount Road, Road 8 (link from Yallah Road to Avondale Road) and the "Marshallvale" Local Bypass Road were prepared. The concepts suggested a significant increase to the cost of delivering Yallah-Marshall Mount and the West Dapto Release Area. On 9 March 2015, Council resolved to defer the finalisation of the Yallah-Marshall Mount Planning Proposal, pending a further review of infrastructure requirements. The local infrastructure review is being reported separately to Council on 14 September 2015.

As part of the consideration of the draft Calderwood Planning Agreement, consideration needs to be given to how much of the infrastructure cost is attributable to the Calderwood development. In terms of dwelling numbers, Yallah-Marshall Mount is proposed to contain some 4,000 dwellings (subject to finalisation) and the ultimate Calderwood 7,700 (including Lend Lease current urban release project of 4,800 lots). Only some of the traffic from Calderwood will use the Wollongong local road network, with the first stages being accessed via the Illawarra Highway, and connections to Albion Park and the M1. The roads within Wollongong will all need to be built/upgraded without Calderwood; however the traffic volumes will increase when Calderwood is included.



As noted, the Court preferred Council's traffic volumes splits for the contribution of Calderwood traffic on Wollongong's local roads, as follows:

- Marshall Mount Road between proposed link road and Yallah Road (section 22) set at 46%;
- Marshall Mount Road between Yallah Road and TAFE (section 23) set at 27%;
- Marshall Mount Road between TAFE and Huntley Road (section 24) set at 26%; and Yallah Road (section 25) set at 26%; and
- Yallah Road (section 25) set at 26%.

Council's Traffic Engineers have reviewed these splits based on the updated data incorporated into the 2036+ Tracks model.

In summary, the infrastructure review estimates the local road costs to be:

	Council's Portion of Total Cost Estimate	Ultimate Calderwood % 2036+	Calderwood Cost Estimate (7,700 lots)	Lend Lease Calderwood (4,800 lots)
Yallah Road (Marshall Mount Road to Local Access Road)	\$8.55m	0%	\$0	\$0
Yallah Road (east of Local Access Road to Princes Highway)	\$9.41m	22%	\$2.07m	\$1.29m
Marshall Mount Road (south of North Marshall Mount Road)	\$20.07m	89%	\$17.86m	\$11.13m
Marshall Mount Road (south of Yallah Road to North Marshall Munt Road)	\$16.13m	9%	\$1.45m	\$0.90m
Marshall Mount Road (north of Yallah Road)	\$7.64m	9%	\$0.69m	\$0.43m
Road 8 (Yallah Road – Avondale Road)	\$41.5m	36%	\$14.99m	\$9.31m
Local Access Road	\$28.18m	68%	\$19.16m	\$11.95m
Yallah Road – Princes Highway Interchange	Not costed			
<b>Total</b>	<b>\$131.48m</b>		<b>\$56.17m</b>	<b>\$35.02m</b>

The Lend Lease Calderwood share of the estimated road costs (\$35.02m) is significantly higher than the developers share of the estimates submitted in the draft Planning Agreement (\$6.336m). Accordingly, it is recommended that Council not support the draft Planning Agreement and pursue another option to recover the Calderwood share of contributions.

### Options:

- 1 Support the progression of the draft Planning Agreement (an average of \$3,438.67 per lot for a total contribution of \$16.5 million) to exhibition.
- 2 Not support the progression of the current draft Planning Agreement and seek to negotiate improved terms, noting that the current offer is the same as the 2013 offer.



- 3 Not support the progression of the draft Planning Agreement. The Wollongong Section 94A Development Contributions Plan (1% levy) will continue to apply to the site. Based on the stated value of development in the Major Project application of \$410 million, on a pro-rata basis, the estimated Wollongong proportion is some \$68.3 million. A 1% contribution would equate to \$0.683 million. It is noted that a portion of the contribution would be paid by the developer as part of the residential subdivision of the land, and there would be a contribution for each dwelling with a value over \$100,000.
- 4 Not support the progression of the draft Planning Agreement and prepare an amendment to the West Dapto Development Contributions Section 94 Plan to apply to the precinct (and concurrently remove the Wollongong Section 94A Development Contributions Plan). The boundaries of the West Dapto Section 94 Plan could be extended to apply to Calderwood Release Area (within the Wollongong LGA). Council could then apply a contribution of:
  - a \$20,000 per lot, resulting in a total contribution of \$16 million (based on the 800 lots in Wollongong); or
  - b \$30,000 per lot if the Department of Planning and Environment declare Calderwood to be an urban release area under Section 94EE of the Environmental Planning and Assessment Act 1979, resulting in a total contribution of \$24 million (based on the 800 lots in Wollongong); or
  - c Seek a contribution greater than \$30,000 per lot if supported by the Independent Pricing and Regulatory Tribunal (IPART). This option will be considered by the West Dapto Section 94 review.
- 5 Not support the progression of the draft Planning Agreement and prepare a separate Section 94 Development Contributions Plan for Calderwood (and concurrently remove the Wollongong Section 94A Development Contribution Plan), to seek contributions payable towards the provision of local infrastructure in the Wollongong LGA. **RECOMMENDED**

## PLANNING AND POLICY IMPACT

### **Illawarra Regional Strategy and Draft Illawarra Regional Group and Infrastructure Plan (2014)**

The West Dapto Release Area is identified in the Illawarra Regional Strategy (2007) as a regionally significant urban release area.

### **Wollongong Community Strategic Plan 2022**

This report contributes to a number of Wollongong 2022 objectives as the West Dapto Section 94 plan is aligned with the Capital Works Program, which contributes to the funding required to meet the Delivery Program.

It specifically delivers on core business activities as detailed in the Land Use Planning Service Plan 2015-16.



## FINANCIAL IMPLICATIONS

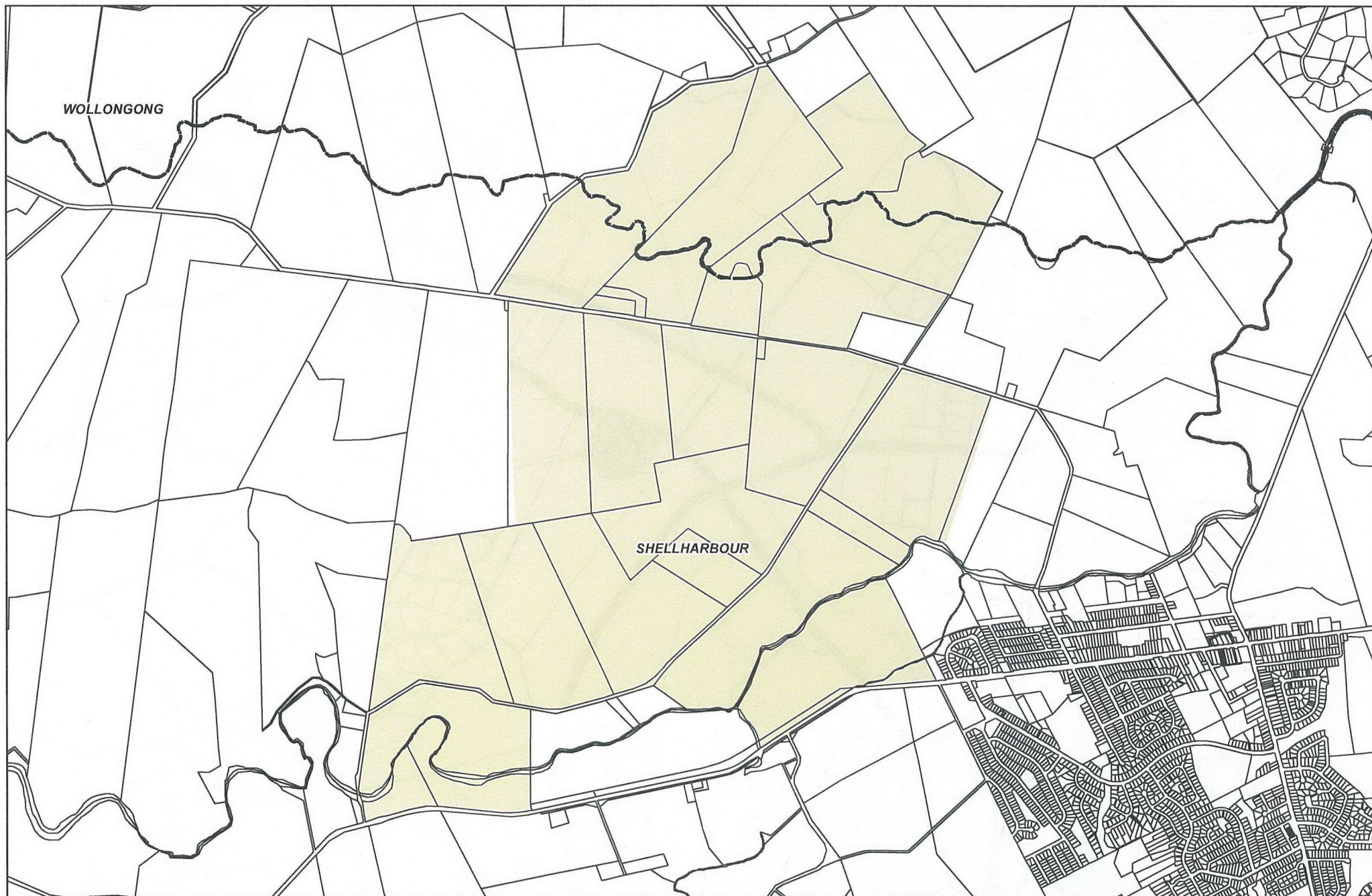
The financial implications are discussed under options.

## CONCLUSION

The proponents of the Calderwood Urban Release Area have requested Council to enter into a Planning Agreement for the provision of local parks and a contribution towards the upgrading of Marshall Mount Road and Yallah Road.

It is recommended that Council not accept the offer, as it does not reflect the impact and demand Calderwood will have on the Wollongong road network. It is recommended that Council resolve to prepare a separate Section 94 Development Contributions Plan for the Calderwood Urban Release Area to collect contributions towards the provision of local infrastructure within the Wollongong LGA.

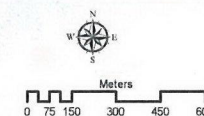




**Legend**

 SEPP - Calderwood

Scale 1:24,000 @ A3

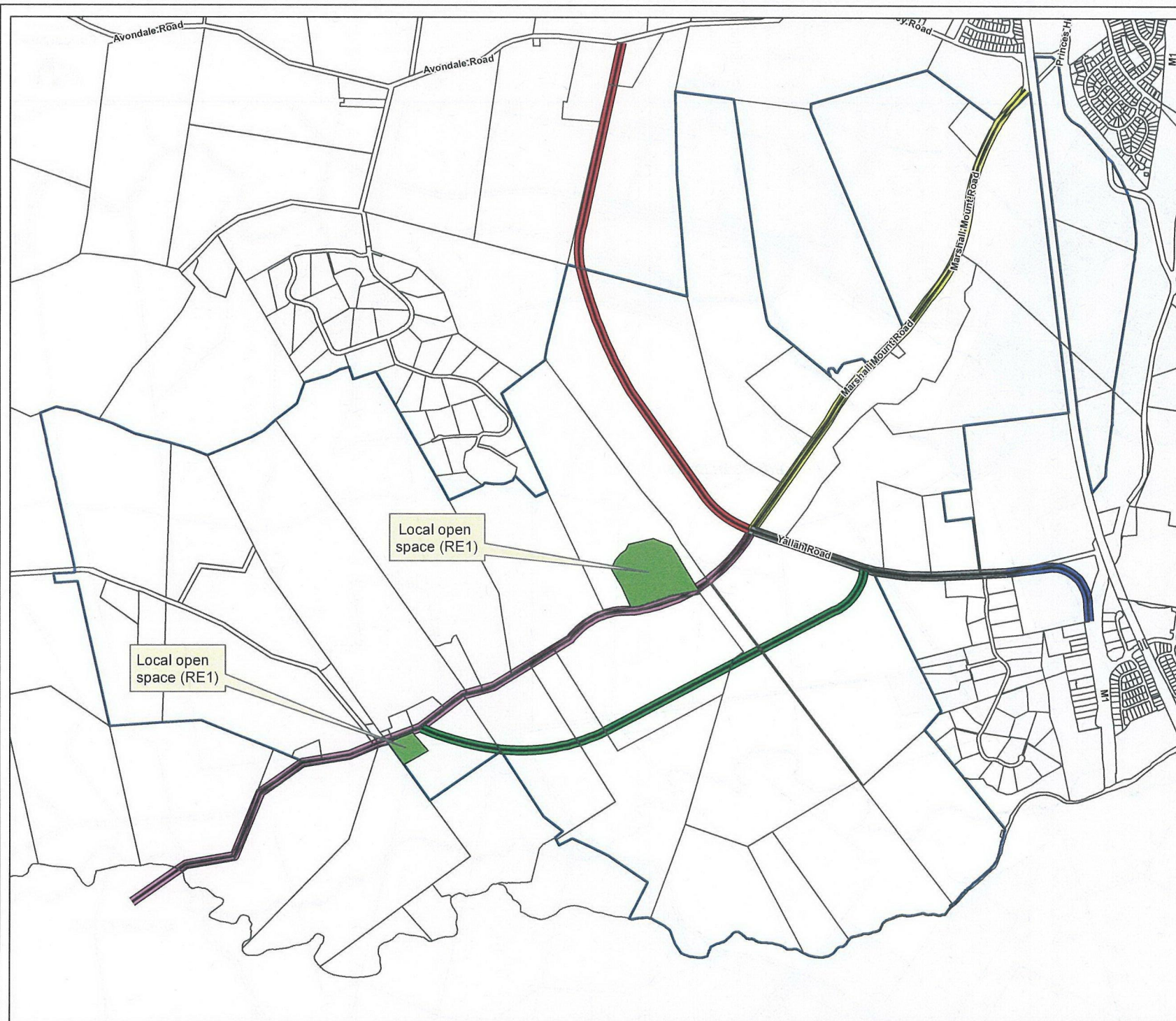




## Main Roads and Open Space

### Legend

-  Active Open Space
-  Internal Link Rd
-  Marshall Mt Road Nth
-  Marshall Mt Road Sth
-  Road No. 8
-  Uncosted Road
-  Yallah Road
-  Stage 5 Boundary



0 520  
Meters

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Drawn By: J Lewis

Date: 24.08.15

Gis ref: MainRoads\_OpenSpace 240815.mxd



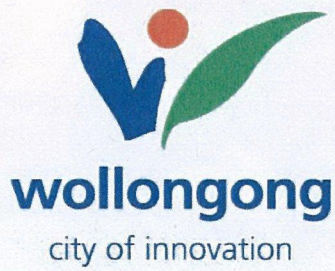


WOLLONGONG CITY COUNCIL

**DRAFT**  
**CALDERWOOD**  
**SECTION 94 DEVELOPMENT**  
**CONTRIBUTIONS PLAN**

**2016**





**CALDERWOOD RELEASE AREA**  
**SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN (2016)**  
**WOLLONGONG CITY COUNCIL**

Document Control						
Document ID: Calderwood Section 94 Plan						
Rev No	Date	Revision Details	Typist	Author	Verifier	Approver
1		Draft S94 plan for Council consideration and exhibition				



## Contents

Part 1 – Summary Schedules .....	1
Part 2 – Administration and Operation of the Plan .....	3
2. INTRODUCTION .....	3
2.1. What is a Section 94 Development Contribution? .....	3
2.2. What is the Name of this Plan? .....	3
2.3. Where does this Plan Apply .....	3
2.4. What is the Purpose of this Plan? .....	6
2.5. Application of This Plan .....	6
2.6. Development to which this Plan Applies .....	6
2.7. Commencement of the Plan .....	6
2.8. Relationship to Other Plans and Policies .....	6
2.9. Relationship to Special Infrastructure Contribution .....	7
DEVELOPER CONTRIBUTIONS .....	7
2.10. Policies and Procedures on the Levying and Payment of Contributions .....	7
2.11. Method of Payment .....	7
2.12. Planning Agreements .....	9
2.13. When must a Contribution be paid? .....	10
2.14. Deferred or Periodic Payment .....	10
2.15. Construction certificates and the obligation of accredited certifiers .....	10
2.16. Complying development and the obligation of accredited certifiers .....	11
2.17. Credit and Offsets for Works in Kind .....	11
2.18. Credit for Existing Development .....	11
2.19. Savings and Transitional Arrangements .....	11
2.20. Pooling of Contributions .....	11
2.21. Exemptions .....	11
2.22. Calculation of Contributions .....	12
2.23. Review and Monitoring of Plan .....	14
2.24. Contributions Register .....	15
2.25. Inforce Date of Plan .....	15
Part 3 - Strategy Plans .....	16
3. Residential Development Nexus .....	16
3.1. Rationale for New Facilities and Services .....	16
3.2. Cost of Facilities .....	16



3.3. Transport Facilities.....	17
3.4. Plan Administration .....	19
Part 4 – Work Schedules .....	20
Part 5 – Supporting Material.....	21
Part 6 –Definitions .....	22

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## Part 1 – Summary Schedules

This Plan is the Calderwood Section 94 Development Contributions Plan (2016).

The contributions received from this Plan will provide roads, bridges and administration costs.

The road works to be provided will contribute toward satisfying the needs of the incoming population of the Calderwood Urban Release Area and their impacts on the road network in West Dapto Release Area in particular Yallah Marshall Mount. The 609 hectare site will provide around 4,800 homes for approximately 12,500 residents.

The cost of required road works and administration tasks are summarised below.

**Table: 1.1 Work Schedule: Cost Per Category (base cost)**

Transport and Traffic	Amount
Land	\$10,422,390
Works	\$52,345,349
<b>Sub Total</b>	<b>\$62,767,739</b>

Administration	Amount
<b>Sub Total</b>	<b>\$627,677</b>

Contributions for the Calderwood Release Area (excluding Stage 1) will be levied at the time of development of the land rezoned for residential purposes (General and Large Lot Residential) within the Wollongong Local Government Area. The contribution is based on a per hectare rate as shown in Figure 1.2, and equates to \$8,232.17 per dwelling when considered across the entire Calderwood Release Area.

**Table 1.2 - Contribution Per Hectare – Wollongong Local Government Area**

Zoning	Contribution Per Hectare
R1 General Residential	\$756,915
R5 Large Lot Residential	\$76,391

Note: This Rate excludes Stages 1 which was approved by the Land and Environment Court

### Development Timetable:

It is anticipated that the expenditure will occur on a pro-rata basis over the life of the development for the Calderwood release area.

**Table 1.3 Development Timetable**

Stage	Completion year (Revised)	No. dwellings	Cumulative total
<b>1 (Court Approved)</b>	2016	231	231
<b>2</b>	2018	550	781
<b>3-4</b>	2020	1450	2231
<b>5-6</b>	2026	1300	3531
<b>7</b>	2033	600	4131
<b>8</b>	2037	550	4186

(source: Delfin Lend Lease Staging Plan)



**Table 1.4 - Contribution Per Person Across Calderwood Release Area (Residential Development)**

Facility Type	Contribution Per Person
Transport - Land	\$451.19
Transport - Capital	\$2,266.03
Administration	\$27.17
<b>Total</b>	<b>\$2,744.39</b>

(based on an Occupancy Rate of 3 persons per dwelling)

**Table 1.5 - Contribution Per Dwelling Across Calderwood Release Area (Residential Development)**

Dwelling Type	Contribution Per Dwelling
Subdivision, Dwelling House, Dual Occupancies	\$8,233.17

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## **Part 2 – Administration and Operation of the Plan**

### **2. INTRODUCTION**

#### **2.1. What is a Section 94 Development Contribution?**

Development contributions are contributions made for the purpose of public amenities and services required because of development and are paid by those undertaking development.

Section 94 of the Environment Planning and Assessment (EP&A) Act 1979 enables Councils to seek contributions from developers where development is likely to increase the demand for public facilities. These are levied at the time of development consent.

The EP&A Act establishes that a Council can only require a Section 94 contribution if:

- The development will or is likely to require the provision or increase the demand for public amenities and services within the area;
- There is an adopted contributions plan; and
- The contribution is reasonable.

The contribution can either be:

- Land dedication;
- Monetary contribution for the cost of works or facilities to be provided in the future;
- Monetary contribution for the cost of works or facilities already provided in anticipation of development;
- Material public benefit (works in kind); or
- A combination of the above.

The ability to levy and recoup costs for the provision of roads is critical in the Calderwood Urban Release Area as the land is being transitioned from rural to residential. The additional traffic generated by Calderwood has significant impacts on the roads within the West Dapto Release area. Calderwood will eventually support a population of approximately 12,500 and the levy system will significantly reduce the financial burden on Council and existing residents.

It is therefore important that the contributions levied are reasonable and are a direct consequence of the development. These contributions are therefore limited to the essential works and facilities considered necessary by Council.

#### **2.2. What is the Name of this Plan?**

This Contribution Plan is called Calderwood Section 94 Development Contribution Plan 2016.

#### **2.3. Where does this Plan Apply**

The plan covers all land with Calderwood Urban Release Area as identified in Figure 1, which was rezoned by the NSW Department of Planning on 14 January 2011 through the State Environmental Planning Policy (Major Developments) 2009. Part 28 of the SEPP applies to land within both the Wollongong City Council and the Shellharbour City Council areas.

This Plan will only apply to land that forms part of the Calderwood Urban Release Area which is within the Wollongong Local Government Area (LGA). Although there is a clear nexus between the need for additional roads works within the West Dapto Release Area as a result of the Calderwood Release Area, Shellharbour City Council has entered into a Planning Agreement with the developer of the land (Calderwood Release Area) which precludes Council from imposing a condition on current and future development consents pursuant to Section 94 of the



*Environmental Planning and Assessment Act, 1979.* Therefore, this Plan seeks to levy development contributions from the portion of land within the Wollongong LGA, which will ultimately form the final stages (Part Stage 7 and Stage 8) of the Release Area.

The ultimate Calderwood Urban Release Area extends beyond the area zoned for urban development. At this time this Section 94 plan only applies to the area zoned by the SEPP (Major Developments) 2009. If other parts of the ultimate Calderwood Urban Release Area are rezoned for urban development, they will be considered for inclusion in the Plan.

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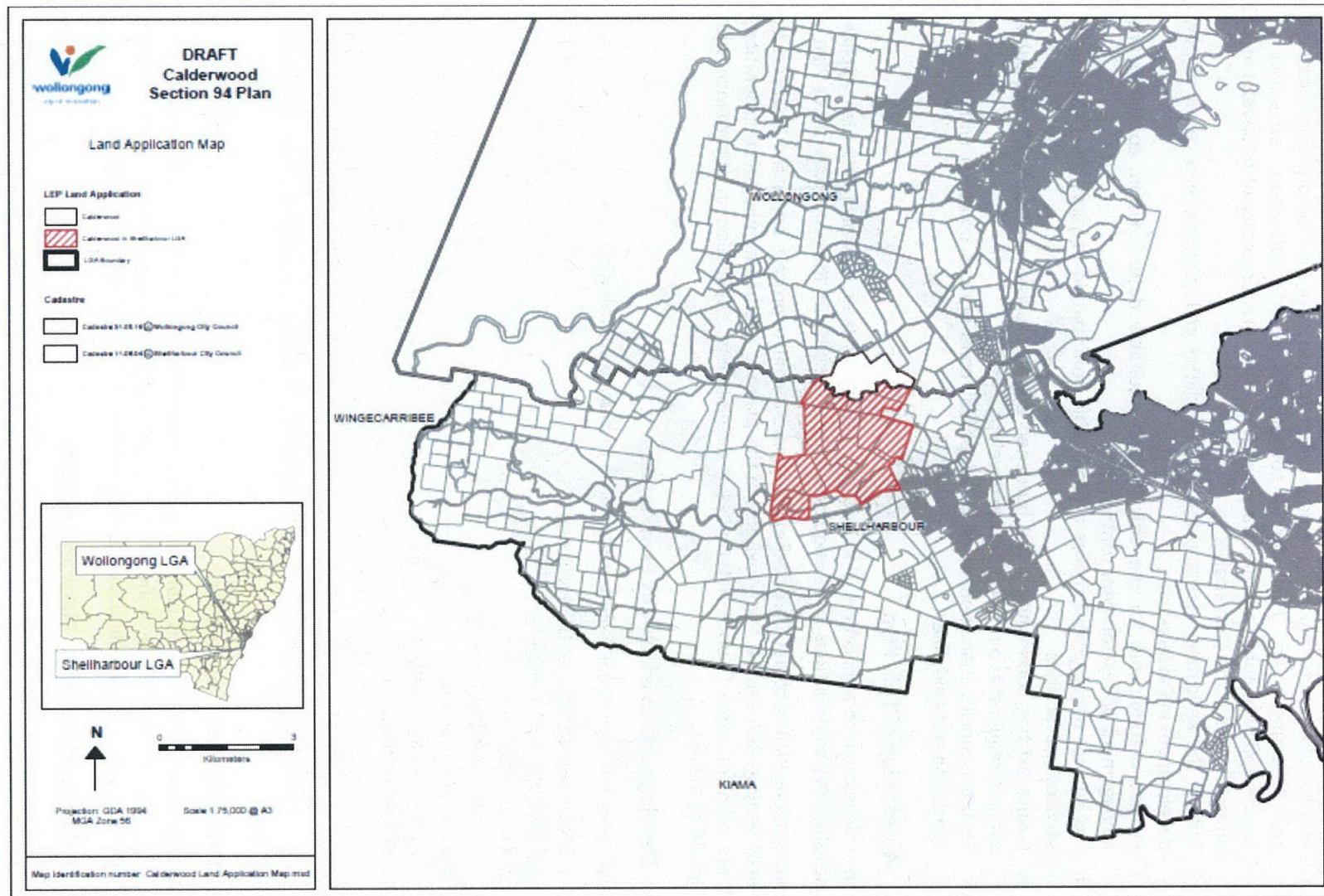


Figure 1 Land to which this Plan applies



## **2.4. What is the Purpose of this Plan?**

The purpose of the Plan is to:

- a. Authorise Council to impose conditions under Section 94 of the Environmental Planning and Assessment Act 1979 for a contribution to the provision, extension or augmentation of public amenities and services, when granting consent to development on land to which this Plan applies.
- b. Outline the anticipated demand for public facilities and servicing as a result of new development in Calderwood.
- c. Provide a framework for the efficient and equitable determination, collection and management of development contributions.
- d. Ensure that development makes a reasonable contribution towards the provision of services and facilities.
- e. Ensure existing community is not burdened by the provision of amenities and public services required as a result of future development.
- f. Ensure Council's management of development contributions complies with relevant legislation and guidelines.

## **2.5. Application of This Plan**

When a development application is lodged and relates to land to which this plan applies, Council shall levy contributions on development in accordance with the provisions of this Plan.

A Contributions Plan becomes part of the development control process under the EP&A Act by virtue of Sections 80A and 94. The provisions of this plan are one of a number of considerations that are relevant when Council determines a development application in accordance with Section 80 of the Act.

## **2.6. Development to which this Plan Applies**

The following types of development are required to make a contribution:

- Subdivision for residential purposes;
- construction of a dwelling;
- a dual occupancy;
- multiple dwelling housing;
- multi-unit housing;
- seniors housing; and/or
- other dwellings.

Development contributions will not be sought for retail premises, office premises, business premises, community facilities and recreational facilities (excluding any residential components).

## **2.7. Commencement of the Plan**

This development contributions plan has been prepared pursuant to the provisions of Section 94 of the EP&A Act and Part 4 of the EP&A Regulation 2000 and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the EP&A Regulation.

## **2.8. Relationship to Other Plans and Policies**

This plan repeals the following section 94 / 94A contributions plans applying in that part of the Wollongong local government area as referred to in section 2.3:



- The area is identified in the West Dapto Release Area Section 94 Contributions Plan (2015) as part of the West Dapto release area but not as an area considered a Contribution Collection Area.

Calderwood adjoins stage 5 of the West Dapto Urban Release Area, known as the Yallah Marshall Mount precinct. The West Dapto Section 94 Development Contributions Plan (2015) applies to the Yallah Marshall Mount precinct and a new draft West Dapto Section 94 Development Contributions Plan (2016) has been exhibited. The cost of the provision for roads and bridges are apportioned to both plans, as they will be utilised by residents of both release areas.

Any other contributions plan approved by Council (and in force under Division 6 or Part 4 of the EP&A Act at the time this Plan commenced) does not apply to development that is subject to a requirement to pay a contribution under this Section 94 Plan.

## **2.9. Relationship to Special Infrastructure Contribution**

This Plan does not affect the determination, collection or administration of any special infrastructure contribution levied under section 94EF of the EP&A Act in respect to development on land to which this Plan applies.

Applicants should refer to details of Special Infrastructure Contributions issued by the Department of Planning in relation to the Calderwood release area.

## **DEVELOPER CONTRIBUTIONS**

### **2.10. Policies and Procedures on the Levying and Payment of Contributions**

The following sections describe the policies and procedures involved in levying and payment of developer contributions under this plan including method/timing of payment, planning agreements, deferred/periodic payment, obligations of accredited certifier with respect to construction certificates/complying development, savings and transitional provisions, credits/offsets for works-in-kind, calculation of contributions rates and the review and monitoring process of the plan.

### **2.11. Method of Payment**

Council will accept Section 94 payments in one or a combination of the following methods:

#### ***Monetary Contribution:***

This is the most common method. However it can be offset by providing a material public benefit as identified in the Contributions Plan.

#### ***Material Public Benefit (Works-in-Kind):***

Where an applicant makes a request and Council in its absolute discretion determines that it is appropriate, an applicant may provide a material public benefit (commonly referred to as works-in-kind) in part, or full, satisfaction of a monetary contribution.

Any request must demonstrate that the works in kind are of equivalent or greater benefit to the community compared to what has been identified under this Contributions Plan. The proposed works in kind offset must be included in the conditions of consent or a S96 modification of the consent, to reflect the proposed offset.

The works must be included in the works schedule as set out in Section 4. The cost of the work will be offset against the contribution required for the same facility category only.



The amount of the offset will be as agreed by Council and will not exceed the cost allocation for the works included in the Contributions Plan.

In assessing such a request, Council will generally take into account the following:

- whether the proposed work in kind will be to a suitable standard for Council to eventually accept;
- finalisation of, or consistency with, the detailed design of the facilities;
- the submission of plans and cost estimates to Council of the proposed works to be undertaken by the applicant;
- whether the location, siting and design of the proposed works has regard to the Master Plan for Calderwood and West Dapto Release Area;
- the timing of completion and future recurrent costs including staffing and maintenance and future management (particularly if work to a higher standard is proposed);
- Council may consider works to a higher standard than the Contributions Plan allowance, however no reimbursement of additional costs will be provided;
- the financial implications for cash flow and whether the proposed works pre-empt the future orderly implementation of works as identified in the works schedule; and
- future dedication, handover and management arrangements.

All agreements will include, but not limited to, the following:

- the works to be undertaken;
- the timing of the works;
- the quality of the works;
- the cost of the works;
- the applicant's rights and responsibilities; and
- Council's rights and responsibilities.

***Dedication of Land:***

Council may accept the dedication of land (identified for public purposes under this plan) to offset the required monetary contribution. The value of land will be negotiated between the applicant and Council, and any monetary contributions payable will be reduced by the value of the land formally agreed upon. An appropriate condition will be included in any consent applying to land identified for public purposes to ensure that the land is transferred to Council at no cost.

***Value of Works:***

The value of works will be determined utilising the following method:

- a. Any Credit will be calculated based on the actual cost of works or the agreed cost estimate, whichever is the lesser. The agreed cost estimate will be determined by a review of the costs submitted by the applicant via Council's Infrastructure Team or a Registered Quantity Surveyor at Council's discretion;
- b. The agreed cost estimate can be amended by submission of a variation request by the applicant which will be reviewed and certified by a registered Quantity Surveyor;
- c. The actual cost of works is required to be evidenced and verified by a registered Quantity Surveyor;
- d. The Quantity Surveyor to act on the project will be chosen by Council from a list of 3 recommended by the applicant all of whom are to be members of Panels for The NSW Department of Commerce or Local Government Procurement; and
- e. Quantity Surveyor service costs are to be borne by the applicant.

***Value of Land:***

Developers of land to which this Plan applies will be required to provide either:



- sufficient, usable and (where appropriate) embellished land for the particular facilities identified in this Plan to meet the needs of the population attributable to the proposed development; or, alternatively
- an equivalent monetary contribution to Council for the acquisition and embellishment of land for the particular facilities identified in this Plan.

Council will, wherever appropriate, require developers to dedicate land free of cost for the facilities identified in this Plan. Where the development does not, or cannot provide the full land area required as a contribution the shortfall will be required as a monetary contribution. The contribution rates included in this Plan reflect the monetary contribution required where land is not dedicated free of cost.

Where the contribution required is by way of dedication free of cost, the land:

- is to have an associated draft plan of management prepared in accordance with Part 2, Division 2 of the Local Government Act 1993 and Part 4, Division 2 of the Local Government (General) Regulation 2005 and prepared at full cost to the developer (This applies only where the dedication relates to the provision of community or open space and recreation facilities); and
- The value is determined in accordance with either section 2.13, the Land Acquisition (Just Terms Compensation) Act 1991 or if listed for sale on the open market potentially by way of negotiation in accordance with Council's obligations and policies. This will be offset against monetary contributions required under this Plan.

## **2.12. Planning Agreements**

In accordance with Section 93F(1) of the EP&A Act, a planning agreement is a voluntary agreement or arrangement between a planning authority and a developer under which the developer agrees to make contributions towards a public purpose. A planning agreement may wholly or partly exclude the application of Section 94 to the development that is subject of the agreement.

This offer may include a monetary contribution, dedication of land, the carrying out of works, or another material public benefit for public purposes. Those purposes need not wholly relate to the impacts of the applicant's development but need to be consistent with the items listed in Section 4.

The provisions of Sections 93F to 93L of the EP&A Act and accompanying Regulation prescribe the contents, form, subject matter and procedures for making planning agreements.

Any person seeking to enter into a planning agreement should refer to Council's policy on Planning Agreements and in the first instance submit a proposal in writing to Council, documenting the planning benefits and how the proposal would address the demands created by development for new public infrastructure, amenities and services. The submission may include a copy of the draft agreement.

Public purposes are defined in the EP&A Act as (without limitation) the provision or recoupment of the cost for providing:

- public amenities or public services;
- affordable housing;
- affordable housing or transport or other infrastructure;
- transport or other infrastructure relating to land;
- funding of recurrent expenditure relating to the provision of public amenities or public services;
- monitoring of the planning impacts of development; and



- conservation or enhancement of the natural environment.

### **2.13. When must a Contribution be paid?**

A contribution must be paid to the Council at the time specified in the condition that imposes the contribution. If no such time is specified, the contribution must be paid prior to the issue of a subdivision certificate, construction certificate or complying development certificate.

### **2.14. Deferred or Periodic Payment**

Council will only permit deferred or periodic payment where development is staged and only with approval of the Council Officer(s) whose position(s) holds the required Council delegations.

The stages of development and relevant contribution payment for each stage must be clearly documented in the conditions of consent. In this regard a Section 96 modification of consent is required if proposed staging of development is not reflected in the original consent.

For development which is staged, Section 94 contributions must be paid at the rate applicable at the time of subdivision or construction certificate, for at least the number of additional lots/dwellings for which subdivision or construction certificate release is sought.

For each stage, the calculation of the number of lots/dwellings for which contributions are payable will count any residue lot as a single lot.

The circumstances for deferred or periodic payments are as follows:

- Compliance with the provisions is unreasonable or unnecessary in the circumstances of the case.
- 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.
- Where the applicant 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 applicant have a legally binding agreement for the provision of the works or land dedication.
- There are circumstances justifying the deferred or periodic payment of the contribution.

If Council does accept a deferred or periodic payment Council may require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance. The conditions for deferred or periodic payment and the requirements of the bank guarantee will be set in the conditions of consent.

### **2.15. Construction certificates and the obligation of accredited certifiers**

In accordance with Section 94EC of the EP&A Act and clause 146 of the EP&A Regulation 2000, 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 monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides 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 EP&A Regulation 2000. 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.



## **2.16. Complying development and the obligation of accredited certifiers**

In accordance with Section 94EC of the EP&A Act accredited certifiers must impose a condition requiring monetary contributions in accordance with this Contributions Plan for the following development types:

- Dwelling houses on an allotment where no previous contribution under Section 94 has been made.

The conditions imposed must be consistent with Council's standard Section 94 consent conditions and be strictly in accordance with this Contributions Plan. It is the professional responsibility of the accredited certifiers to accurately calculate the contribution and to apply the Section 94 condition correctly.

## **2.17. Credit and Offsets for Works in Kind**

There may be cases where an applicant carries out works in kind, with the prior agreement of Council, with such works included in the Schedule of Works in this Contributions Plan but the cost of which exceeds the contribution required for that facility category. In these situations the applicant will be reimbursed for the cost of the works that:

- exceed the contribution due within that facility category, and
- have been approved by Council as being consistent with the contributions plan.

## **2.18. Credit for Existing Development**

Council will determine any applicable credit(s) based on the number & type of lawful existing development i.e. Residential Lot or Dwelling.

## **2.19. 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.

## **2.20. Pooling of Contributions**

This plan authorises monetary Section 94 contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of levies are shown in the works schedule.

## **2.21. Exemptions**

The only exemptions allowed are:

- a. Those that are subject to a Direction from the Minister for Planning under Section 94E of the EP&A Act 1979;
  - i. for the purpose of disabled access (10/11/06);
  - ii. for the sole purpose of affordable housing (10/11/06) – *(including Granny Flat/Secondary dwelling under 60m2)*;
  - iii. for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building (10/11/06);
  - iv. for the sole purpose of adaptive re-use of an item of environmental heritage (note: the term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*) (10/11/06);
  - v. 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 (10/11/06);



- vi. Seniors living development under SEPP Seniors Housing 2004 by a Social Housing provider (14/9/07);
  - vii. Components of school development that is a Building Education Revolution (BER) project (9/9/09);
  - viii. Port Kembla Lease Area, as mapped in the Ports SEPP (6/12/13).
- b. An application by the Council for community infrastructure, such as but not limited to libraries, community facilities, child care facilities, recreational areas, recreational facilities or car parks;
  - c. An application by, or on behalf of, the NSW Government for public infrastructure, such as but not limited to hospitals, police stations, fire stations, educational facilities and public transport infrastructure, if supported by a comprehensive submission; and
  - d. Any other development for which Council considers an exemption is warranted, where the decision is made by formal ratification of the Council at a Council meeting, if supported by a comprehensive submission.

For an exemption to be considered where a comprehensive submission is required, any such development will need to submit a comprehensive submission to justify the exemption and providing a case for the exemption by including, but not limited to, the following information:

- Justification for the exemption;
- The mechanism ensuring that such development will remain in the form proposed in the future (ie not to increase future demand on public amenities and services), note: where a further development application or application for complying development under the EP&A Act is required for any changes to the development no mechanism is required. However, if a change of use is available by way of exempt development then the requirements for a mechanism remains;
- Other items if applicable:
  - How the Development will incorporate the maintenance of the item of heritage significance;
  - How the development will contribute to the public benefit of the community;
  - Works in the public domain included in the development; and
  - How the residents/users will utilise existing private facilities attached to the development that replicate those types provided by Council.

Exemptions (partial or full) in addition to those subject to a Direction from the Minister for Planning under Section 94E of the EP&A Act, will only to be granted with the approval of the Council Officer(s) whose position(s) holds the required Council delegations. A Council resolution is required for other developments requiring exemptions, apart from the application for or on behalf of the Council and/or NSW Government.

## **2.22. Calculation of Contributions**

### **2.22.1. Contribution Formula**

Council will be utilising the traditional 'nominal' dollar value approach for the Calderwood and West Dapto release area Section 94 Plan.

### **2.22.2. Land Acquisition Index**

Contribution rates for land acquisition will be indexed based on the average of the annual percentage change in the Established House Price Index for Sydney, published by the Australian Bureau of Statistics.



Land specifically identified within the Plan for infrastructure and facility requirements that have already been acquired by Council will be indexed quarterly in accordance with the Consumer Price Index – All groups Sydney (CPI). This index is published by the Australian Bureau of Statistics on a quarterly basis.

### 2.22.3. Capital Expenditure and Administrative Cost Index

Contribution rates for capital expenditure and administrative costs will be indexed quarterly in accordance with the Consumer Price Index – All groups Sydney (CPI). This index is published by the Australian Bureau of Statistics on a quarterly basis.

The method of indexing the contribution rates is to multiply the base contribution rate by the most recently published CPI at the time of payment.

### 2.22.4. Formula

#### 2.22.4.1. Contribution rates for all Capital Expenditure, Land already acquired and Administrative Costs

For changes to the All Group CPI Index, the contribution rates within the Plan will be reviewed on a quarterly basis in accordance with the following formula:

$$\text{\$C}_A + \frac{\text{\$C}_A \times ([\text{Current Index} - \text{Base Index}])}{[\text{Base Index}]}$$

where:

$\text{\$C}_A$	is the contribution at the time of adoption of the plan expressed in dollars
Current Index	is the All Groups CPI (Sydney) as published by the Australian Bureau of Statistics available at the time of review of the contribution rate
Base Index	is the All Groups CPI (Sydney) as published by the Australian Bureau of Statistics at the date of adoption of this plan.

*Note: In the event that the current All Groups CPI is less than the base All groups CPI, the current All Groups CPI shall be taken as not less than the previous All Groups CPI.*

#### 2.22.4.2. Contribution rates for works schedule items involving land yet to be acquired

For changes to land values, the Council will publish at least on an annual basis the revised land index values that are to be used to change the base land values contained in the Plan which will be determined in accordance with the following formula:

$$\text{\$C}_{LV} + \frac{\text{\$C}_{LV} \times ([\text{Current LV} - \text{Base LV Index}])}{[\text{Base Index}]}$$

where:

$\text{\$C}_{LV}$	is the land values within the plan at the time of adoption of the plan expressed in dollars
Current LV Index	is the land value index as published by the Council available at the time of review of the contribution rate



Base LV Index is the land value index as published by the Council at the date of adoption of this plan.

*Note: This clause does not cover the adjustment of a contribution between the time of consent and the time payment is made. This is covered by clause 2.21.4.3.*

#### 2.22.4.3. How are contributions adjusted at the time of payment?

The contributions stated in a development consent are calculated on the basis of the section 94 contribution rates determined in accordance with this plan. If the contributions are not paid within the quarter in which consent is granted, the contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rates that are applicable at time of payment in the following manner:

$$\$C_p = \frac{\$C_{DC} + \{ \$C_{DC} \times \{ (\$C_Q - \$C_C) / \$C_C \} \}}{1}$$

where:

$\$C_p$	is the amount of the contribution calculated at the time of payment
$\$C_{DC}$	is the amount of the original contribution as set out in the development consent
$\$C_Q$	is the contribution rate applicable at the time of payment
$\$C_C$	is the contribution rate applicable at the time of the original consent

The current contributions are published by Council and are available from Council offices. Should the Council not validly publish the applicable contribution rates, the rate applicable will be calculated in accordance with the rate prevailing in the previous year.

#### 2.23. Review and Monitoring of Plan

This plan will be subject to regular review by Council in accordance with the provisions of the EP&A Regulation. The purpose of such a review is to ensure that:

- levels of public service and amenity provisions are consistent with population trends and community needs;
- contribution levels reflect changes to construction costs and land values;
- the works program can be amended if the rate of development differs from current expectations.

The contribution rates and works program for this plan have been formulated using information available at the time of writing. A number of variables will be monitored to facilitate the review process. Some of these are listed below:

- lot production and dwelling construction
- construction costs
- land costs
- anticipated population

The contribution rates will be reviewed by reference to the following specific indices:

- construction costs by reference to the Australian Bureau of Statistics Producer Price Index.
- land acquisition costs by reference to the Australian Bureau of Statistics Established House Price index for Sydney.



- changes in the capital costs of various studies and activities required to support the strategies in the plan by reference to the actual costs incurred by council in obtaining these studies.

Any changes to the Contributions Plan, apart from indexing and minor typographical corrections, will be placed on public exhibition in accordance with the requirements of the EP&A Act and Regulation.

#### **2.24. Contributions Register**

A Contributions Register will also be maintained for this Contributions Plan in accordance with the EP&A Regulation and may be inspected on request. This Register will include:

- (1) details of each consent for which a Section 94 condition has been imposed;
- (2) the nature and extent of the contribution required by the condition for each facility category;
- (3) the name of the Contributions Plan the condition was imposed under; and
- (4) the date any contribution was received and its nature and extent.

At the end of the each financial year, the Council is required to make an annual statement within the yearly budget. This statement must include the following:

- (1) Opening and closing balances of money held in the Section 94 Contributions Plan by the Council for the accounting period;
- (2) Total amounts received by way of monetary contribution under this Plan;
- (3) Total amount spent in accordance with this Plan; and
- (4) Outstanding obligations of the Council to provide works for which contributions have been received.

#### **2.25. Inforce Date of Plan**

This Plan came into force on XX XXX 2016



## **Part 3 - Strategy Plans**

This section sets out the strategies that Council intends to follow to cater to the needs of future population growth and development in the Calderwood release area. It identifies the resulting demand for public services and public facilities and the costs and timing of provision of the works that the Council intends to provide to cater to that demand.

It is important to note that the Calderwood area will develop over many years and planning for facilities at this stage of the development must recognise that population demands will vary over time, and may possibly vary from the assumptions that are used to determine the contributions that are set out in this plan. The Council will continually monitor population growth and demand, and where necessary, will appropriately adjust the facilities to ensure that the facilities are delivered to meet the demands of the population.

### **3. Residential Development Nexus**

#### **3.1. Rationale for New Facilities and Services**

A key principle of Section 94 is to demonstrate a relationship between the anticipated development and the demand for additional open space, community facilities, drainage and road works. The demonstration of a relationship between new development and such demand is a core requirement of a valid Contributions Plan.

The Calderwood Release Area includes approximately 50 hectares for retail, community, education, commercial and employment uses.

The first stage of the development includes a village centre with specialty stores, office buildings and cafés. There will also be a town centre and multi-purpose community resource centre that will include a library.

Calderwood Release Area will also provide for 217ha of open space. Therefore this Plan only seeks to recoup the costs for new roads.

The expected development and resulting population and their travel needs from the Calderwood Release area will create an increased demand on roads within the West Dapto Release Area in Stage 5 being Yallah Marshall Mount.

The service area identified as being required to address the impacts of the expected development, including:

- Traffic and transport management facilities; and
- Plan administration.

The following section of the Contributions Plan identifies the nexus between the proposed urban release and the facilities or services listed above. It specifies the appropriate level of apportionment, and provides a brief description of the proposed works and their timing.

#### **3.2. Cost of Facilities**

Costs for facilities included in this Plan were derived from the services of a qualified quantity surveyor and/or from Council's experience of facility costs in other areas. Assumptions used to derive estimated costs of facilities included in this Plan are detailed in the following Sections.

At the time this Plan was prepared, the planning of facilities was carried out at a strategic level. That is there were few, if any, facility concept plans upon which estimated costs could be based. As a result, a contingency allowance equivalent to 15 percent of the base cost was added to all works included in this Plan (excluding land acquisition).



The contingency allowance is considered reasonable given the early stage of planning of most facilities included in the Plan.

### 3.3. Transport Facilities

#### 3.3.1. Transport Facilities Demand

Wollongong City Council has developed a Local Government Area wide traffic model to establish the required road hierarchy to service the future population of West Dapto and Calderwood Release Areas. This model, combined with practical planning experience establishes the need for infrastructure works resulting from the development of these Release Area, namely:

- Capacity improvements to existing road and intersection infrastructure;
- Intersection treatment upgrades (i.e. priority controls, roundabouts, or traffic signals);
- Road widening, and condition improvements;
- Bridging structures over creek lines, railway corridors and major roads;
- Bus accessible routes through West Dapto and connections to Dapto, and bus stop facilities; and
- Optimising of public transport routes and infrastructure.

The urbanisation of the release area will necessitate the establishment of an extensive traffic movement network. The works are considered necessary to facilitate development, whilst ensuring an acceptable level of access, safety and convenience for all road users within the release area.

Based on the traffic modelling, the major road network proposed for the Calderwood Release Area consists of two road types, being major and minor collectors. Both these road types are suitable to cater for bus routes. The proposed road network has taken into consideration the heavily constrained nature of the release area, including flooding and electricity easement.

#### 3.3.2. Proposed Transport Facilities

The following infrastructure works will be required to facilitate the development of the West Dapto Release Area:

##### 3.3.2.1. Roads

This Plan includes a total of 9.93km of funded collector roads.

Transport Facilities			
Item	Item Identification	Description	Quantity (lin m)
Existing local roads			
	Yallah Road	4 lane	650
	Marshall Mount Road	2 lanes	4,480
New local roads			
	Local Road	2 lanes	2,300
	NR100-NR103	2 lanes	2,500
	Design and Project Management		10%
	Construction Contingency		20%



### 3.3.2.2. Bridge Crossings

This Plan includes eight (8) funded crossings.

Bridge Crossings						
	Road No &/or name	Link Description	Link Length (m)	Link Lanes	Width (m)	Type
<b>Watercourse Bridges</b>						
B18A	Marshall Mt Rd (2 x Duck Ck tributaries)	Yallah Rd to Huntley Rd	6	4	21	plank up to 20m upgrade
B18B	Marshall Mt Rd (2 x Duck Ck tributaries)	Yallah Rd to Huntley Rd	45	4	21	super T over 20m upgrade
B19	Marshall Mt Rd	Yallah Rd to LGA boundary	6	4	21	plank up to 20m upgrade
B20B	Yallah Rd (3 x Duck Ck tributaries)	Marshall Mt Rd to F6 freeway	6	2	14	plank up to 20m upgrade
<b>Bridges for New Roads</b>						
B30A	Road No.8 (2x Duck Ck tributaries)	Avondale Rd to Marshall Mt Rd	88	4	21	super T over 20m new
B30B	Road No.8 (2x Duck Ck tributaries)	Avondale Rd to Marshall Mt Rd	25	4	21	super T over 20m new
B46	Local Rd	Marshall Mount Rd to Yallah Rd	9			plank up to 20m upgrade
<b>Rail Bridges</b>						
B47	Local Rd	Marshall Mount Rd to Yallah Rd	36			plank structure

### 3.3.2.3. Intersections

This Plan contains four (4) funded intersections.

Intersections			
Site number	Road 1	Road 2	Facility
Int 36	Road 8	Avondale Road	large signals
Int 40	Marshall Mount Rd	Yallah Rd	large signals
Int 107	Local Rd	MM2	small signals
Int 108	Local Rd	Y2	small signals

### 3.3.3. Apportionment

The need to provide the traffic and transport facilities identified in this part of the Plan is predominately generated by the residential development of West Dapto however Calderwood has been identified as a significant source of traffic generation travelling north through the Yallah Marshall Mount Area. As such the cost of infrastructure has been applied and apportioned appropriately across both the West Dapto Section 94 Development Contribution Plan and this Plan.

### 3.3.4. Schedule of Works and Costs Estimates

A schedule of transport facilities to be levied under this plan is included in Table 4.3 – Works Schedules.

### 3.3.5. Contribution Formula

The formula used to calculate the contributions rate for transport facilities costs is set out in Section 2.22.4

The contribution rates for transport facilities costs are set out in Table 4.3.



### **3.4. Plan Administration**

#### ***3.4.1. Administration and Plan Preparation***

The preparation, on-going review, and implementation of this Contributions Plan requires significant Council resources. This includes allocation of time from strategic planning, services delivery and community development staff together with professional fees, to prepare and review the Contributions Plan.

Once the Plan is in place, further staff time will be required to manage the contributions system which includes the calculation and recording of contribution payments, monitoring development, population growth, works expenditure and indexation. The costs associated with the preparation and administration of this Plan will therefore be levied for under this Contributions Plan.

Administration and Plan preparation costs have been based on 1% of the total cost of the Plan.

#### ***3.4.2. Apportionment***

The need for administration of the Contributions Plan is generated by the residential development of Calderwood and West Dapto.

It is appropriate and reasonable that the Plan administration costs be set at 1% of the total.

#### ***3.4.3. Contribution Formula***

The formula used to calculate the contributions rate for administration costs is set out in Section 2.22.4.



## Part 4 – Work Schedules

**Table 4.1 Transport Facilities (External to Calderwood Release Area)**

Transport Facilities										
Item	Item Identification	Description	Quantity	Unit	Pavement	Intersections	Bridges	Capital Cost	Acquisition Cost	Total Cost
Existing local roads										
	Yallah Road	4 lane	650	Lin m	\$995,627	\$114,488	\$86,506	\$1,196,621	\$601,216	\$1,797,837
	Marshall Mount Road	2 lanes	4480	Lin m	\$9,740,646	\$333,056	\$4,387,120	\$14,460,822	\$2,547,782	\$17,008,604
New local roads										
	NR1-NR3	4 lanes	2500	Lin m	\$6,266,181	\$545,040	\$5,040,787	\$11,852,008	\$5,040,000	\$16,892,008
	Local Road	2 lanes	2300	Lin m	\$10,889,230	\$0	\$1,866,972	\$12,756,202	\$2,233,392	\$14,989,594
	Design and Project Management		10%	item				\$4,026,565		\$4,026,565
	Construction Contingency		20%	item				\$8,053,131		\$8,053,131
Sub Total					\$27,891,684	\$992,584	\$11,381,385	\$52,345,349	\$10,422,390	\$62,767,739



## Part 5 – Supporting Material

The Section 94 plan is supported by the following documents:

- West Dapto Urban Release Area – Integrated Transport Plan (Aecom, October 2010)
- West Dapto Urban Release Area Stages 1 & 2 – Road Network Infrastructure needs Study – Transport Modelling & Analysis (WCC, Oct 2010)
- Road Infrastructure (Section 94) Estimates Review (GHD 2010)
- Yallah Marshall Mount Traffic Study (Bitzios consulting 2013)
- Duck Creek Flood Study (BMT WBM 2012)
- Yallah Marshall Mount Floodplain Risk Management Study (BMT WBM 2013)
- Marshall Mount and Yallah Road Upgrade – Strategic Concept design (SMEC 2015)
- Yallah Marshall Mount Precinct Draft Structure Plan and Infrastructure Costs Report (WCC 2015)
- TRACKS Land Use/Transport models (WCC various)



## Part 6 –Definitions

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

<b>Applicant</b>	means the person, company or organisation submitting a development application.
<b>Attributable cost</b>	means the estimated cost for each item in the works schedules set out in Part 4 of this Plan, which may differ from the final actual cost of the item. It will be the value used in determining the amount of any offset of monetary contributions as a result of any works-in-kind proposal.
<b>Contribution</b>	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.
<b>Council</b>	means the Council of the City of Wollongong.
<b>CPI</b>	means the All Groups Consumer Price Index (Sydney) as published by the Australian Bureau of Statistics.
<b>Embellishment</b>	means the enhancement of any public facility provided by the Council by the provision of services, facilities or works.
<b>EP&amp;A Act</b>	means the <i>Environmental Planning and Assessment Act 1979</i> as amended.
<b>EP &amp; A Regulation</b>	means the <i>Environmental Planning and Assessment Regulation 2000</i> as amended.
<b>LEP</b>	means a local environmental plan made by the Minister under Section 70 of the EP&A Act.
<b>LGA</b>	means local government area
<b>Net developable land</b>	<p>means all land within West Dapto that can be used for economic purposes plus half the width of any adjoining access roads that provide vehicular access, but excluding land:</p> <ul style="list-style-type: none"><li>• that has been identified by the [NSW Department of Planning] to be required for the provision of infrastructure utilising the special infrastructure contributions under section 94EF of the EP&amp;A Act;</li><li>• set aside for publicly owned community facilities and/or community services provided or to be provided under this Plan or another contributions plan prepared under section 94 of the EP&amp;A Act;</li><li>• set aside for roads provided or to be provided under this Plan or another contributions plan prepared under section 94 of the EP&amp;A Act;</li><li>• used as regional RTA roads;</li><li>• used as existing roads to be included as part of the proposed road network;</li><li>• identified in the Wollongong Development Control Plan 2009 Chapter D16 as being set aside for public open space;</li><li>• that is flood affected, below the 1 in 100 year flood level;</li><li>• that is located in a high hazard flood zone;</li><li>• that is within a core riparian zone or riparian buffer area;</li><li>• for public schools and TAFE colleges;</li><li>• for publicly owned health facilities;</li></ul>



- for ambulance stations, fire stations & police stations;
- for bus depots, bus/rail interchanges;
- for rail corridors, rail stations & associated parking facilities; and
- facilities provided by Sydney Water, Integral Energy or equivalent water, sewer or energy provider.












For the purposes of this Plan, economic purposes are residential purposes and retail, commercial, business, industrial, education and other employment purposes.

<b>Planning Agreement</b>	means a voluntary planning agreement referred to in Section 93F of the EP&A Act.
<b>Public facility</b>	means any public amenity or public service, as referred to in section 94 of the EP&A Act, the need for which has increased or been created by development.
<b>Recoupment</b>	means the payment of a monetary contribution to the Council to offset the cost (plus any interest) that the Council has already incurred in providing public facilities in anticipation of development.
<b>Settlement</b>	means the payment of a monetary contribution, the undertaking of a work in kind or the exchange of documents for the dedication of land required as a result of new development.
<b>Special Infrastructure Contribution</b>	means a contribution imposed as a condition of development consent in accordance with Section 94EF of the EP&A Act.
<b>Works in kind</b>	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.
<b>Works schedule</b>	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, as set out in this Plan.



# Calderwood Section 94 Contributions Plan

## Key

-  Community Facilities
-  Roundabout
-  Traffic Lights
-  Bridge Locations
-  Partial S94 Funded Roads
-  Calderwood Boundary
-  New Road
-  Existing Road
-  Arterial Road Infrastructure
-  Existing Road - proposed 6 lanes
-  West Dapto Basin Locations

## Cadastre

 Cadastre 07.10.15 © Wollongong City Council

