

SECTION 94 CONTRIBUTIONS PLAN
PORT MACQUARIE - HASTINGS COUNCIL

Innes Peninsula

Road Works

Version 1.3



Port Macquarie - Hastings Council

SECTION 94 CONTRIBUTION PLAN FOR
PORT MACQUARIE - HASTINGS COUNCIL

Innes Peninsula Road Works

Port Macquarie

Version	Adopted	Commenced	Details
1	14/04/2003	07/05/2003	
1.1	16/06/2003	01/07/2003	Amended to incorporate new contribution ratios in table 3 in accordance with Council's Development Contribution Assessment Policy
1.2	07/03/2005	16/03/2005	Amended to incorporate new policy on deferral of payment of contributions.
1.3	6/03/2006	3/04/2006	Amended to incorporate new provisions for Monitoring Review and Adjustment of Rates, Pooling of Contributions and Contributions Ratios for Residential Development.

Prepared on behalf of
Port Macquarie - Hastings Council

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Executive Summary

A Section 94 Contributions Plan is a public document which contains Council's policy regarding contributions levied on development. It includes details of anticipated increased demand for public infrastructure and services arising from a development. Identification of this demand is fundamental to the levying of development contributions and is the key to deciding whether or not contributions can be charged. The contributions plan should also include contribution formulae, contribution rates, a works schedule and how the contributions are to be spent.

The introduction of the Innes Peninsula Contribution Plan enables Port Macquarie - Hastings Council to levy contributions for development that will, or is likely to, increase or create demand for road infrastructure.

The aim of this plan is to ensure that adequate road infrastructure is available for the orderly release of land in the Innes Peninsula. The Innes Peninsula is expected to expand to a population of approximately 7,000 people.

As noted above, this plan will levy contributions for roads. As a result of providing the roadworks in an orderly manner to allow the development of the Innes Peninsula, many of the roadworks are being provided before the cost can be totally recouped from the Contribution Plan. Accordingly, Council will need to borrow funds to cover the provision of these roads. The interest costs associated from this borrowing has been calculated and will be recouped by the Contribution Plan.

The land to which is plan applies is illustrated below in **Figure 1**.

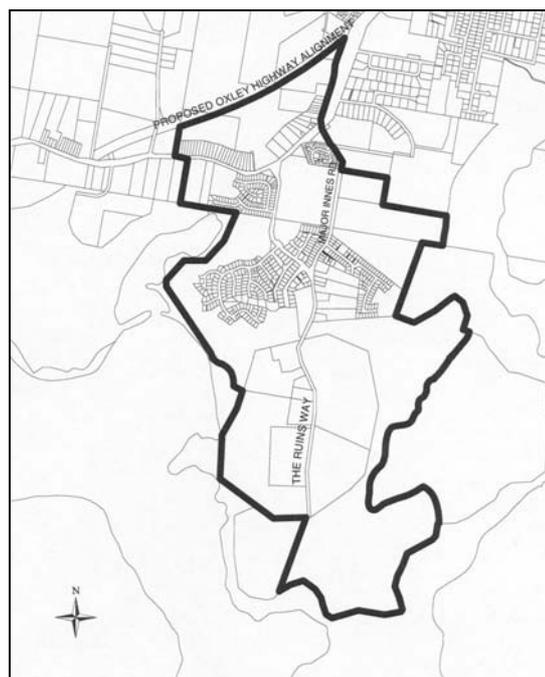


Figure 1 - The land to which this plan applies

A summary of the infrastructure to be levied is provided below, a more detailed works schedule is provided as **Appendix A**.

Summary of works schedule for Innes Peninsula Road construction

- Works to The Ruins Way, including an intersection with the Oxley Hwy;
- Upgrade to Major Innes Drive;
- Provision of an East/West Link; and
- Provision of an Eastern Collector Road.

A summary of contributions for roadworks is given below in **Table 1**.

Table 1 – Summary of Contributions

Item	Total Cost	Innes Peninsula CP Proportion (%)	No of lots	Contribution Rate per lot ¹
Roadworks	\$6,772,975.00	\$4,700,103.80	2,088	\$2,466

1 includes a component of \$215 to cover loan servicing costs as a result of Council funding the majority of works in advance of recoupment through the CP.

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1.0 Administration and Accounting

1.1 Name of this Contributions Plan

This Contribution Plan may be referred to as the Innes Peninsula Contributions Plan – Roadworks.

1.2 The purpose of this Contributions Plan

The primary purpose of this Contributions Plan is to satisfy the statutory requirements of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000 by outlining the Section 94 contributions that may apply to new development in the Innes Peninsula and the methodology by which these contributions have been calculated.

Other purposes of this Contributions Plan are to:

- ensure that the Innes Peninsula area can provide an adequate level of road infrastructure to meet demand as development occurs;
- enable Port Macquarie - Hastings Council, to recoup funds which it has spent on the new public road infrastructure in anticipation of the new development;
- ensure that the existing Port Macquarie - Hastings community is not financially burdened by the provision of the new public road infrastructure required as a result of the new residential development;
- provide a comprehensive and equitable strategy for the assessment, collection, expenditure, accounting and review of contributions for public roads infrastructure on the Innes Peninsula.

1.3 To what area does this Contributions Plan (CP) apply?

This CP applies to all land bounded by the thick black line illustrated at **Figure 1**.

1.3.1 How has the future demand for roads been determined

The future demand for roads has been determined by the projected growth rate and the ultimate level of development and the modelling of roads improvements to meet that growth.

This CP has been developed on the basis of the Innes Peninsula expanding to a population of approximately 6,837 people or some 2,800 Lots¹ (Equivalent Tenements) within approximately 16 years. The current population of the Innes Peninsula is approximately 1,300 people.

1.3.2 Estimated timing of lot production

The anticipated rate of lot take up for 16 years is provided below in **Table 2**.

1 For the purpose of this plan a lot is taken to be the same as an equivalent tenement (ET).

Table 2 – Anticipated Lot¹ take up rate, Innes Peninsula

Year	Number of Lots
Year 1	712
Year 2	762
Year 3	812
Year 4	862
Year 5	922
Year 6	997
Year 7	1107
Year 8	1252
Year 9	1414
Year 10	1592
Year 11	1780
Year 12	1970
Year 13	2170
Year 14	2380
Year 15	2590
Year 16	2800

1 In this Contribution Plan, Lots are taken to be the same as a reference to an Equivalent Tenement (ET)

1.3.3 Monitoring, Review and Adjustment of Rates

Council will adjust the contributions levy in this plan on a quarterly basis. To ensure that the value of the contributions is not eroded by inflation, Council will increase the levy in accordance with the Consumer Price Index All Group Index Number for Sydney (CPI), as published by the ABS.

Where contributions have been levied under an existing consent, granted in accordance with this Plan, but not yet paid, the contribution will continue to be indexed on a quarterly basis in accordance with the above until such time as they are paid.

Contributions rates will be adjusted in accordance with the following formula

$$CRA = \left(1 + \frac{CPI_C - CPI_O}{CPI_O}\right) \times CRO$$

Where

CRA is the adjusted contributions rate at the time of adjustment in the Contributions Plan, or at the time of payment of the contributions, as applicable.

CRO is the original contribution rate in the contributions plan, or at the time of the development consent, as applicable.

CPIO is the original CPI rate at the time of adoption of the contributions plan, or at the time of the development consent, as applicable.

CPIC is the current CPI rate at the time of adjustment of the contributions rate in the Contributions Plan, or payment of the contributions, as applicable.

The cost of proposed works in the contribution plan will be reviewed annually if warranted, but at least every three years, to ensure the CPI adjustments reflect the 'real' cost of acquisitions and construction.

Council will also review this plan if it becomes necessary to borrow additional funds to meet the Section 94 funding component of the works program due to a shortfall in the receipt of development contributions.

1.3.4 The relationship between this plan and other plans and policies

This following Contributions Plans also apply to the subject land:

- Port Macquarie - Hastings Council's Contribution Plans for Open Space 1996 (as amended);
- Port Macquarie - Hastings Major Council Roads Contributions Plan 1996.
- Port Macquarie - Hastings Water Supply DSP 2001

The primary difference between the Port Macquarie - Hastings Major Council Roads Contributions Plan and the Innes Peninsula Contribution Plan is that that plan levies contributions for Council wide major road network facilities, whereas the Innes Peninsula CP primarily levies contributions for local facilities. Contributions for major road network are applicable to the Innes Peninsula as well as those levied for local-based infrastructure by this plan.

The following Council policies, planning documents, Contribution Plans and Development Servicing Plans are also relevant to this contribution plan:

- Port Macquarie - Hastings Council Section 94/64 Policy & Procedures;
- Subdivision Code DCP 17
- Port Macquarie Urban Expansion Area DCP 10
- DCP No. 45 - Innes Peninsula

1.3.5 How does this contribution plan operate

What In granting consent to subdivision for a new residential allotment, Council will impose a condition requiring a contribution towards the cost of new roads.

1.3.6 Formula is used to determine the contributions

The contribution amount is calculated using the formula below. The contribution rate per lot(or ET) is summarised by **Table 1**. Contribution rates for different types of residential uses including medium density development are determined as a percentage of a single lot or ET rate and as detailed in table 3.

Contribution Formula

$$\text{Contribution Rate (per Lot or ET)} = \frac{(\text{TC} - \text{S}) \times \text{P}}{\text{n}}$$

TC = Total cost of Facilities (including loan servicing costs)

S = Direct subsidy

P = Proportion attributable to new development

n = Estimated number of new lots or ET's

ET = Equivalent (eg A house – single density, one lot with one dwelling entitlement)

Where:

Total Cost = sum of capital and land cost for the roads, including loan costs.

Direct Subsidy = money/grants obtained from other sources (eg the RTA) towards the costs of the roads.

1.3.7 Pooling of Contributions

This plan expressly authorises monetary S94 Contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

Table 3 - Contributions Ratios for Residential Development

Description	Percentage
A house - single density (one lot with one dwelling entitlement) detached dwelling in Rural 1(a1),1(a3) or 1(a4) zones (eg managers residence or rural worker's dwelling) Lots > 450	100
Flats, units, town houses, villas, dual occupancies, Integrated Housing designed for lots less than 450m2 etc. and permanent self-contained caravan park accommodation	
<ul style="list-style-type: none"> one (1) bedroom 	50
<ul style="list-style-type: none"> two (2) bedroom 	67
<ul style="list-style-type: none"> three (3) bedroom 	90
<ul style="list-style-type: none"> four (4) or more bedrooms 	100
High density (3 or more storeys)	
<ul style="list-style-type: none"> one (1) bedroom 	50
<ul style="list-style-type: none"> two (2) bedroom 	67
<ul style="list-style-type: none"> three (3) bedroom 	90
<ul style="list-style-type: none"> four (4) or more bedrooms 	100
Boarding houses, guest houses, hostels, B&Bs etc	
<ul style="list-style-type: none"> not self-contained, shared facilities for cooking, laundry and bathrooms per bedroom not dormitory or bunk rooms 	25
<ul style="list-style-type: none"> partially self contained, shared facilities for cooking & laundry but own ensuite per bedroom not dormitory or bunk rooms 	35
<ul style="list-style-type: none"> not self-contained, shared facilities for cooking, laundry and bathrooms per bed, dormitory or bunk rooms 	12.5
<ul style="list-style-type: none"> partially self contained, shared facilities for cooking & laundry but own ensuite per bed, dormitory or bunk rooms 	17.5
<ul style="list-style-type: none"> B&Bs are currently contributions exempt for a trial period 	Nil
Motel unit	
<ul style="list-style-type: none"> partially self contained (shared facilities for cooking & laundry but own ensuite) 	25
<ul style="list-style-type: none"> self contained (ensuite and kitchen) Equates to a 1 bedroom unit. For motel suites in excess of 1 bedroom, apply the percentages for high density units 	50

Description	Percentage
Aged unit where the development is approved under SEPP (Seniors Living) or the Applicant demonstrates to Council's satisfaction that the development will be occupied by older persons as defined in the SEPP and the maximum occupancy for any unit is 2 persons	
<ul style="list-style-type: none"> • self contained (ensuite & kitchen) 1 bedroom 	40
<ul style="list-style-type: none"> • self contained 2 bedroom 	55
<ul style="list-style-type: none"> • self contained 3 or more bedrooms 	75
Nursing Home/Hostels	
<ul style="list-style-type: none"> • High Dependency/Residential Care Facility (per bed) 	Nil
<ul style="list-style-type: none"> • Low Dependency/Hostel (per bed) 	35
Caravan parks and or camping sites	
<ul style="list-style-type: none"> • transient, not permanent (not self-contained) 	25
<ul style="list-style-type: none"> • transient, not permanent (partially self-contained) 	35
<ul style="list-style-type: none"> • permanent (not self-contained) 	25
<ul style="list-style-type: none"> • permanent (partially self-contained, ensuite) 	35
<ul style="list-style-type: none"> • permanent (self-contained, ensuite & kitchen) 	see flats, units, townhouses etc

Note: Residential Development means any use listed in this table whether or not the use is intended for temporary, short term, long term, permanent, or tourist accommodation

1.4 Accounting Matters

1.4.1 When are contributions payable

Port Macquarie - Hastings Council will require the contributions for Innes Peninsula at the following times:

Development application for Subdivision

Prior to the subdivision certificate being issued, or, as specified in the development consent.

DA for multi unit residential development and other residential uses noted in Section 1.3.6

Prior to the release of a construction certificate by Council or a private certifier or as specified in the development consent.

1.4.2 Material public benefit and/or Works in Kind

Work in Kind

Works in kind may be accepted by Council as full or partial settlement of a contribution. The term works in kind specifically refers to the undertaking of work or provision of a facility that is nominated in the works schedule.

Council may accept the offer of a WIK in lieu of a contribution if Council is satisfied that:

- the WIK contribution will not prejudice the timing or the manner of the provision of the public facility for which the contribution is required; and
- the value of the work(s) to be undertaken is at least equal to the contribution assessed in accordance with this contribution plan.

Material public benefit

Council may accept a material public benefit as a contribution. A material public benefit is not defined under the EP&A Act but must consist of some physical (material) component other than the dedication of land or the payment of a monetary contribution. A material public benefit may be offered by an applicant and if satisfactory to Council, may be accepted.

The provision of a material public benefit may be an appropriate means of providing infrastructure as an alternative to items nominated in the roads works schedule. It should be noted however that the acceptance of a material public benefit may interfere with the cash flow from contributions and may affect the implementation of an adopted works schedule.

Council may only accept an offer to make a contribution by way of WIK (for any item included on the works schedule) or a MPB (for an item not on the works schedule) in compliance with Section 94(2C) of the Environmental Planning and Assessment Act 1979 and any Council Policy relating to a WIK/MPB.

1.4.3 Exemptions to contributions payment

There are to be no exemptions for contribution payment under this Contributions Plan or via any Council Policy.

1.4.4 Deferment

Council will allow the deferral of the payment of Development Contributions involving the construction of a building subject to:

- i) Lodgement of an irrevocable guarantee for the amount of the contributions plus an additional 12 month interest amount calculated at the average rate of Council's investments performance over the past 12 months plus 1%.
- ii) The maximum period for which the guarantee will be accepted is the sooner of 12 months or the issue of an occupation certificate for the development.
- iii) Guarantees will only be accepted from an institution approved by the Manager Corporate and Financial Planning.
- iv) If at the end of the period for the lodgment of the guarantee, the outstanding contributions plus the additional amount referred to in 'i' have not been paid, Council will call in the guarantee without further reference to the applicant.
- v) A prorata reduction in the amount referred to in 'i' will be allowed for payment of the outstanding contributions within 12 months or the calling in of the guarantee within 12 months.
- vi) The guarantee is to provide for Council to unconditionally call in the guarantee for the full amount at any time.

2.0 Road improvements arising out of development of the Innes Peninsula

Council commissioned SMEC to prepare a road strategy for the Innes Peninsula. The strategy (dated December 2001) included specifications to sufficient detail to prepare a Development Control Plan and Section 94 plan for road improvements in the area arising from development on the Peninsula.

2.1 Nexus

The power to levy a contribution under s.94 relies on there being a clear link (nexus) between the development being levied and the need for the public amenity or service for which the levy is required. The demonstration of nexus is one of the core components of a valid contributions plan.

The nexus principles have their sources in both the general law of consent conditions and in the wording of s.94 itself. To be valid under general law, a planning condition must be for a planning purpose, must fairly and reasonably relate to the permitted development, and must be reasonable.²

The causal, physical and temporal nexus for the proposed road works has been determined from the SMEC *Innes Peninsula Road Strategy, December 2001*, its assessment of intersection/road length capacity, the projection of traffic growth and acknowledgement of capacity thresholds. The required roadworks, location and timing have been determined from that report. The elements of the required roadworks are illustrated in **Figure 2** below.

² See *Newbury D.C v Secretary of State For The Environment* (1981) AC 578.

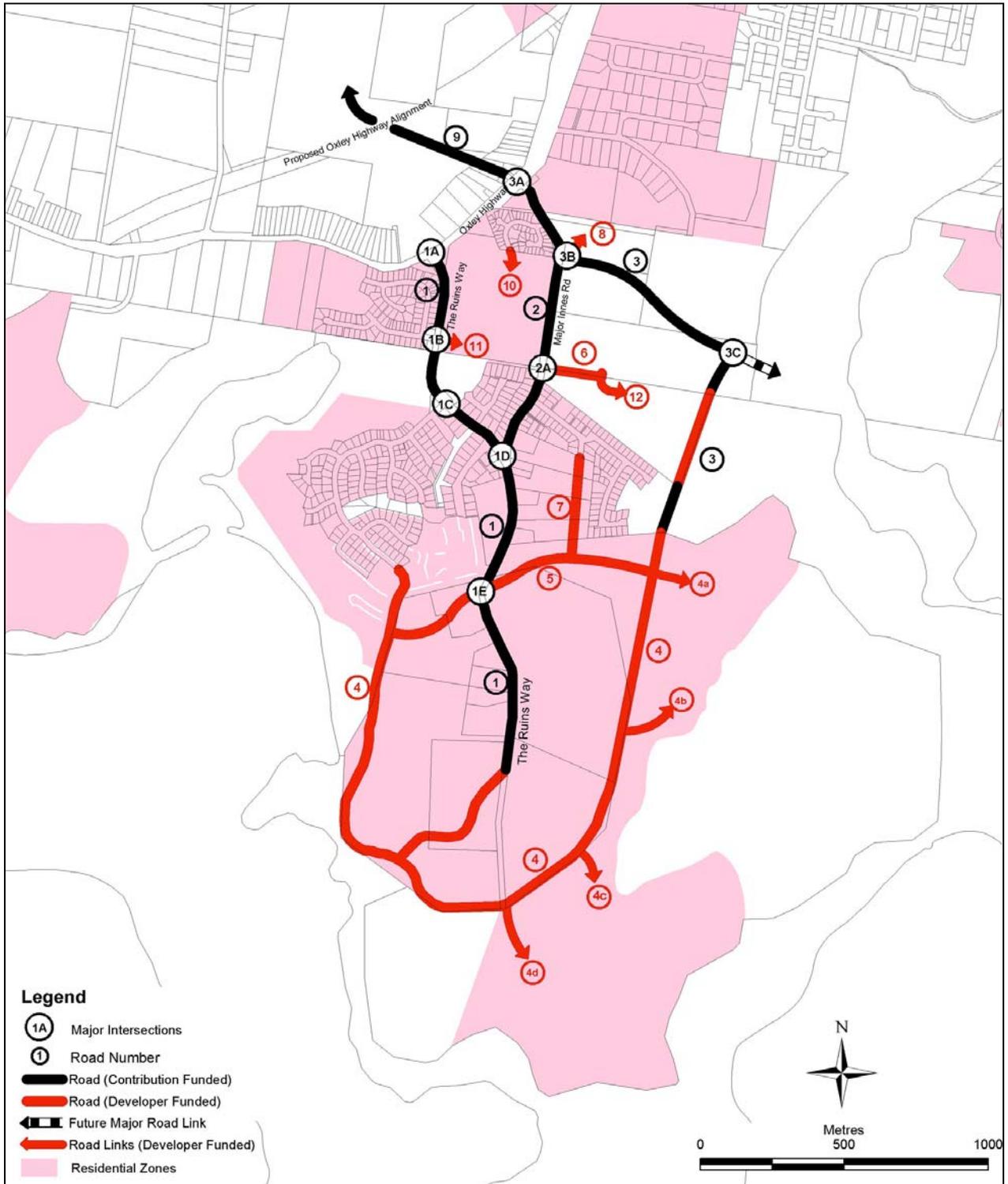


Figure 2 - Roadworks required by the development of the Innes Peninsula

2.2 Apportionment

2.2.1 To what extent do the proposed road works meet the needs of the Innes Peninsula

The road works allow the needs of the new residential development to be met whilst also serving the needs of the existing Innes Peninsula community. The road works will benefit the new residential lots by providing a road network of suitable standard to cater for both existing and new Innes Peninsula s traffic.

Contributions, towards the cost of road work is sought from those who gain a positive benefit. The positive benefit gained by the new residential lots substantiates payment for a proportion of the road works via Section 94 contributions, but the existing community also has an obligation to pay for its share of the road works where a positive benefit is gained.

The apportionment for the proposed roadwork have been determined by the SMEC study. The traffic study has used the Average Annual Daily Traffic (AADT) data generated with and without the development in order to determine the proportion of demand for the works that the development generates.

The resultant road works apportionment are given in **Table 4** and the apportionment details for each of the road projects follows.

Table 4 - Road Works Apportionment

Road No/ Section	Description	Ultimate Average Annual Daily Trips	Average Annual Daily Trips Generated by Development	Developer Apportionment	Council Apportionment
Road No 1 – The Ruins Way					
1A	Roundabout intersection Oxley Hwy/Ruins Way	16,040	10,700	66.71%	33.29%
1A to 1B	Two lane rural road grass verges and swales	10,700	5,860	54.77%	45.23%
1B	Single lane roundabout	10,700	4,370	40.84%	59.16%
1B to 1C	Distributor road (upgrade) ac seal, k&g and drainage	10,060	8,070	80.22%	19.78%
1C	Modification of existing roundabout	10,060	8,070	80.22%	19.78%
1C to 1D	Distributor road (upgrade) ac seal, k&g and drainage	7,350	6,830	92.93%	7.07%
1D	Channelised intersection upgrade	6,830	6,570	96.19%	3.81%
1D to 1E	Distributor road (upgrade) ac seal, k&g and drainage	6,830	6,800	99.56%	0.44%
1E	Single lane roundabout	6,830	6,610	99.7%	0.30%
1E to end	Distributor road (upgrade) ac seal, k&g and drainage	5,240	5,220	99.62%	0.38%
Road No 2 – Major Innes Drive					
3B to 2A	Distributor road/dual carriageway upgrade ac, k&g and drainage	10,210	9,010	88.25%	11.75%
2A	Two lane roundabout	10,210	9,010	88.25%	11.75%
2A to 1D	Distributor road/dual carriageway upgrade ac, k&g and drainage	3,700	3,300	89.19%	10.81%
Road No 3 – East/West Link					
3A	Roundabout intersection Oxley Highway/Major Innes Drive	36,770	16,030	43.60%	56.40%
3A to 3B	Arterial road upgrade ac seal, median, kerb & gutter and drainage	22,520	11,370	50.49%	49.51%
3B	Roundabout intersection Road No 3/Major Innes Drive	22,520	11,370	50.49%	49.51%
3B to 3C	Arterial road ac seal, median, con'c dish drainage and pipes	13,580	4,770	35.13%	64.87%
Part Road 4 (Eastern Collector Road)					
4A & 4B	Collector Road	7,120	7,120	100%	Nil

2.3 Road Works Schedule

The works schedule for the roadworks is included as **Appendix A**.

2.4 The contribution calculation

The formula for calculating the contribution rate can be found at Section 1.3.6 of this contribution plan. **Table 5** below shows the calculation of the contribution rate for roadworks.

Table 5 - Road works contribution rates calculation

Total Cost	Direct Subsidy	Innes Peninsula CP new lots apportionment	Number of Lots/ETs	Debt Component ¹	Contribution Rate per Lot/ET (\$) ²	
		Percentage	cost			
\$6,772,975		various	\$4,700,104	2,088	\$215	\$ 2,466

1 Based on the assumption that both contributions and expenditures are indexed to CPI quarterly.

2 Includes debt component to cover loan servicing required to fund the provision of facilities in advance of recoupment by CP.

Appendix **A**

ROAD WORKS – WORK SCHEDULE

Innes Peninsula DRAFT Contributions Plan Roadworks Work Schedule							
Road No/ Section	Description	Estimated Timing	Total Cost (\$)	Innes Peninsula CP %	Innes Peninsula CP Cost	Council Apportion	Council Costs
1A	Roundabout intersection Oxley Hwy/Ruins Way	2011/12	\$374,375	66.71%	\$249,738.93	33.29%	\$124,636.07
1A to 1B	Two lane rural road grass verges and swales	2008/09	\$291,000	54.77%	\$159,370.09	45.23%	\$131,629.91
1B	Single lane roundabout	2007/08	\$201,125	40.84%	\$82,141.71	59.16%	\$118,983.29
1B to 1C	Distributor road (upgrade) ac seal, k&g and drainage	2009/10	\$268,200	80.22%	\$215,146.52	19.78%	\$ 53,053.48
1C	Modification of existing roundabout	2007/08	\$116,200	80.22%	\$93,214.12	19.78%	\$22,985.88
1C to 1D	Distributor road (upgrade) ac seal, k&g and drainage	2006/07	\$156,000	92.93%	\$144,963.27	7.07%	\$11,036.73
1D	Channelised intersection upgrade	2005/06	\$156,000	96.19%	\$150,061.49	3.81%	\$5,938.51
1D to 1E	Distributor road (upgrade) ac seal, k&g and drainage	2004/05	\$400,250	99.56%	\$398,491.95	0.44%	\$1,758.05
1E	Single lane roundabout	2005/06	\$184,200	99.7%	\$183,644.34	0.30%	\$555.66
1E to end	Distributor road (upgrade) ac seal, k&g and drainage	2004/05	\$508,750	99.62%	\$506,808.21	0.38%	\$1,941.79
3B to 2A	Distributor road/dual carriageway upgrade ac, k&g and drainage	2003/04	\$619,000	88.25%	\$546,247.80	11.75%	\$72,752.20
2A	Two lane roundabout	2003/04	\$218,500	88.25%	\$192,819.29	11.75%	\$25,680.71
2A to 1D	Distributor road/dual carriageway upgrade ac, k&g and drainage	2004/05	\$250,250	89.19%	\$223,195.95	10.81%	\$27,054.05
3A	Roundabout intersection Oxley Highway/Major Innes Drive	2014/15	\$400,125	43.60%	\$174,435.78	56.40%	\$225,689.22
3A to 3B	Arterial road upgrade ac seal, median, kerb & gutter and drainage	2005/06	\$248,100	50.49%	\$125,261.86	49.51%	\$122,838.14
3B	Roundabout intersection Road No 3/Major Innes Drive	2015/16	\$267,000	50.49%	\$134,804.17	49.51%	\$132,195.83
3B to 3C	Arterial road ac seal, median, con'c dish drainage and pipes	2015/16	\$1,532,400	35.13%	\$538,258.32	64.87%	\$994,141.68
4A & 4B	Collector Road	2012/13	\$581,500	100%	581,500	0%	Nil
Total			\$6,772,975.00		\$4,700,103.80		\$2,072,871.20