



Queanbeyan Section 94 Contributions Plan for Extractive Industry 2014

Ref: SF131054/C1436938

Adopted: 11 June 2014
Notified: 27 June 2014
Effective: 1 July 2014

Queanbeyan Section 94 Contributions Plan for Extractive Industry 2014

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Part A: Introduction

This plan details the Queanbeyan City Council's policy regarding section 94 contributions for administration, assessment and settlement of contributions and accountability from extractive industry developments. It also contains the contribution rate for determining contributions and the manner and timing of expenditure of the funds collected.

This document has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and *Environmental Planning and Assessment Regulations 2000 (EP&A Regulations)*. The NSW Land and Environment Court has recognised the significant impact that heavy vehicles associated with extractive industries have on the public road system, beyond the normal usage by the general public, and accordingly has accepted that Section 94 of the *EP&A Act* is an appropriate mechanism for the levy of contributions for the upgrading and rehabilitation of effected public roads.

Where the use of heavy haulage vehicles on public roads is associated with a proposed development and it is considered that the heavy vehicles detrimentally impact on the road pavement and the existing road infrastructure is inadequate to carry the additional load, a contribution will be sought from the proposed development towards the cost of maintenance, repair and rehabilitation of the local road network. The pool of contribution funds will be used to offset the costs associated with maintaining the road network to a suitable public standard.

At the time of preparing the plan the Cooma Road quarry was the only extractive industry operating in the Queanbeyan City Council area. The schedule of works (Table 1) is based on information specific to that proposed development and the development consent. Section 94 contributions will be levied in accordance with the plan on all extractive industry development approvals granted after the date of approval of the plan and the schedule of works will be modified accordingly when information about new proposals become available.

Part B: Administration and Operation of this Plan

Development contributions may be required as a condition of development consent

This plan authorises the Council to impose a condition on development consent under Section 94B of the *EP&A Act* that requires the payment of a monetary contribution or other where the consent authority is satisfied that the development to which the development consent will relate requires the provision of or increases the demand for public amenities and services. In the case of extractive industry the contribution is for road maintenance.

The three general principles in applying Section 94 contributions are:

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

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

Name of the Plan

This Plan is called “*Queanbeyan Section 94 Contributions Plan for Extractive Industries 2014*”.

Purpose of Plan

The primary purpose of the plan is to provide a basis for the levying of developer contributions for maintaining parts of the local road network that are damaged by heavy haulage vehicles. This is to ensure roads are maintained in a reasonable condition for users.

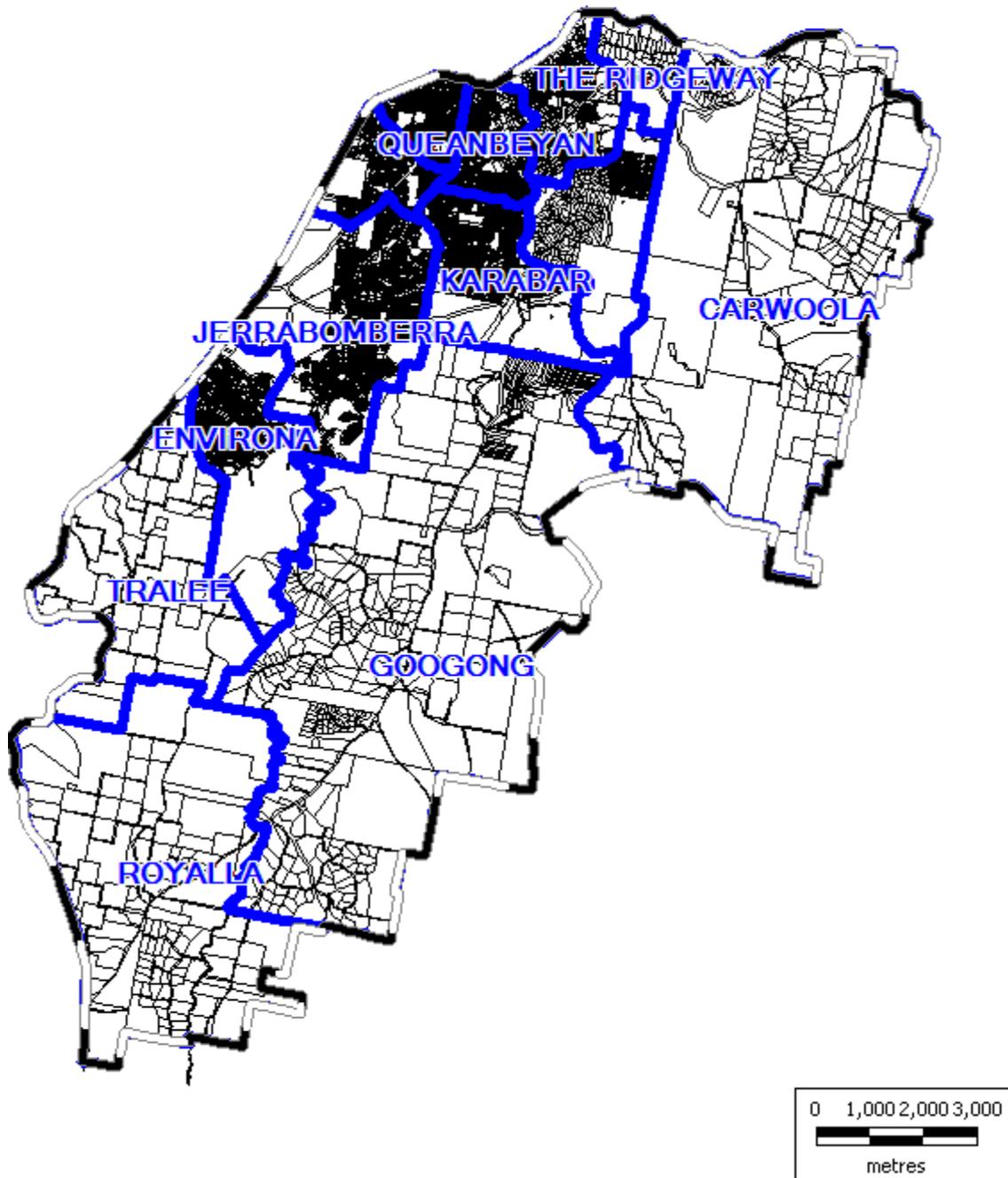
Other purposes of this Contributions Plan include:

- a. Assessment of the demand for road maintenance and repair arising from extractive industry development;
- b. Development of a programme for the provision, location and costs of maintenance required;
- c. Creation of a system that enables the Council to be publicly and financially accountable in its assessment and administration of the plan.

Land to which this Plan applies

This Contribution Plan applies to all of the land within the Queanbeyan LGA (Figure 1) and specifically to existing and future road networks that require maintenance as a result of pavement degradation from heavy haulage vehicles.

Figure 1: Land to which this plan applies



Development to which this plan applies

This plan applies to any development that, in the Council's opinion, is likely to result in heavy haulage vehicles reducing the life of local road pavements.

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Commencement of the plan

This Contributions Plan has been made under the provisions of Section 94 of the *EP&A Act* and Part 4 of the *EP&A Regulations*. As required under clause 26(1) of the *EP&A Regulations* this plan has been prepared having regard to the Developer Contributions Practice Notes issued by NSW Planning and Infrastructure.

This plan was adopted by Council on 11 June, publically notified on 27 June and came into effect on 1 July 2014.

Relationship to other plans and policies

This plan repeals and succeeds the *Section 94 Contributions Plan No. 2 – Extractive Industry*, adopted by Council on 19 June 1995 and notified on 26 July 1995.

This plan is to be read in conjunction with:

- Queanbeyan City Council Section 94 Contributions Plan
- Development Consent issued by the Minister for Planning and Infrastructure on 27 September 2013 for the development: “Cooma Road Quarry Continued Operations Project”
- State Significant Development Assessment Cooma Road Quarry Continued Operations Project - Director-General’s Environmental Assessment Report September 2013

The *Section 94 Contributions Plan No. 2 – Extractive Industry, (July 1995)* shall continue to apply in respect to those development consents requiring the payment of contributions under that plan.

Funds collected but not yet expended - or monetary contributions yet to be paid under the *Section 94 Contributions Plan No. 2 – Extractive Industry, (July 1995)* will be spent in accordance with the requirements of that plan.

Nothing in this plan affects the operation and application of any other contributions plans that apply to land in the Queanbeyan City.

Establishment of a General Nexus

Under Section 94 of the *EP&A Act* a monetary contribution may be required as a condition of development consent “if a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area ...”.

By the nature of operations like extractive industries, heavy haulage vehicles are required to move materials to and from the extraction site. It therefore follows that these heavy vehicle movements will be greater than if no extractive industry or other such development had been present and as a consequence of this increase, the degree of road pavement damage will also increase.

Damage to existing road pavement increases the cost of required road maintenance to keep the road at a serviceable level for the community. Therefore whilst Council prior to development could have budgeted to maintain the road at a certain level of service, the

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impact of the development would mean that more maintenance work will be required to be carried out by the Council to maintain this level of service. The extent of this increased maintenance depends entirely on the amount of heavy vehicular traffic generated by the development.

This increase in maintenance costs has a major impact on Council's financial resources which, in effect, without a contribution from the development, would burden the existing community with providing extra financial resources needed by Council to maintain the existing level of service for the road network. In this case the consent authority can rightly impose a condition of consent to require a monetary contribution for road maintenance providing that a Section 94 plan is in place. The principle of seeking a payment of contributions for road maintenance has been firmly established by case law. In the Land and Environment Court case of *Collin C Donges & Associates Pty Ltd -v- Baulkham Hills Shire Council (1989)* it was established that council's may levy S94 contributions towards the "cost of maintenance, repair and reconstruction of classified main roads under the Roads Act, 1986."

Further there is professional recognition and technical support for the relationship between road maintenance and payment of contributions in the Roads and Traffic Authority's "Guide to Traffic Generating Development". This makes reference to the traffic impact development may have on road pavement. The Guidelines state that "Section 94 contributions ... regarding traffic generating developments have largely arisen from considerations of roadway capacity. Consideration should be given to both the number of lanes required and improvements to intersections (including traffic control devices), to cope with the additional traffic". It is recognised here that there are costs associated with the impacts of increased heavy haulage vehicle usage on roads and therefore it is reasonable that contributions are levied on development.

Consequently Council can recover that part of the cost of maintaining Council's roads which is due to damage caused by the transport of extracted materials, by means of a road maintenance contribution imposed as a condition of development consent.

Contribution rate

For the Cooma Road quarry the Minister for Planning and Infrastructure set the contribution rate of \$0.2911 per tonne for every tonne of quarry product or recycled concrete transported to and from the site as part of the Development Consent dated 27 September 2013 for the "Cooma Road Quarry Continued Operations Project".

In the Director-General's Environmental Assessment Report (September 2013) the following comment has been made:

"Holcim currently pays road maintenance contributions to Queanbeyan City Council for every tonne of product transported from the site in accordance with Council's Section 94 Contributions Plan No 2 – Extractive Industries. As some of the trucks will be back loaded to transport recycled concrete, Holcim has now agreed to pay a contribution for trucks both to and from the site at the applicable rate under the Section 94 Contributions Plan of \$0.2911 per tonne, which equates to approximately \$435,000 a year for road maintenance"

The rate of \$0.2911 per tonne is valid for the financial year ending 30 June 2014. It will then be indexed and adjusted annually, in accordance with the Sydney Consumer Price Index (CPI) applicable to each year ending 30 June.

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Though the rate is set for the continued operations project of Comma Road quarry, if other developments are proposed with associated heavy haulage vehicles, Council will use this rate as a benchmark to determine if the contribution rate, set by the and Infrastructure for Planning in 2013 for the Cooma Road quarry, is in fact reasonable for the proposed development and the cost of the potential impact heavy vehicles generated by the development may have on the road network.

Calculations will be made to determine if a different contribution rate should be levied. It may be that a different approach is to estimate the likely cost of pavement damage caused by heavy haulage vehicles (per tonne per kilometres), and multiplying this cost with the assumed average trip length of a tonne of hauled material. In this scenario this Contributions Plan may require adjusting. If a new rate is determined a new section 94 Contributions Plan for Extractive Industry will be made.

Consideration of previous contributions, offers of material public benefit etc

Any unexpected contribution rate spent by any development will be held as credit against future obligations under this plan.

Offers of material public benefit will be considered on merit and the level of benefit provided to the public. This benefit will be qualified and reflected in the contribution rate applied to the development.

Review of the Contribution Rate

The monetary contribution rates imposed at the time of development consent are adjusted to reflect the increased cost of road maintenance that applies at the time of payment.

The Council may, without the necessity of preparing a new or amending contributions plan, make changes to the monetary direct contribution rates set out in this plan to reflect changes to the Consumer Price Index.

The contribution rate will be indexed and adjusted annually, in accordance with the Sydney Consumer Price Index (CPI) applicable to each year ending 30 June as required by clause 25I of the *EP&A Regulations*. The CPI is published by the Australian Bureau of Statistics (ABS). Please refer to the ABS website: www.abs.gov.au for information regarding the CPI.

The contribution rates will be indexed as follows:

$$\frac{\$CA \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

\$CA is the contribution rate at the time of adoption of the plan expressed in dollars

Current CPI is the *Consumer Price Index (All Groups Index) for Sydney* as published by the Australian Statistician at the time of the review of the contribution rate

Base CPI is the *Consumer Price Index (All Groups Index) for Sydney* as published by the Australian Statistician at 30 June 2014.

The amount of developer contributions stated in a consent are calculated on the basis of the contribution rate applying at the time of the issuing of development consent.

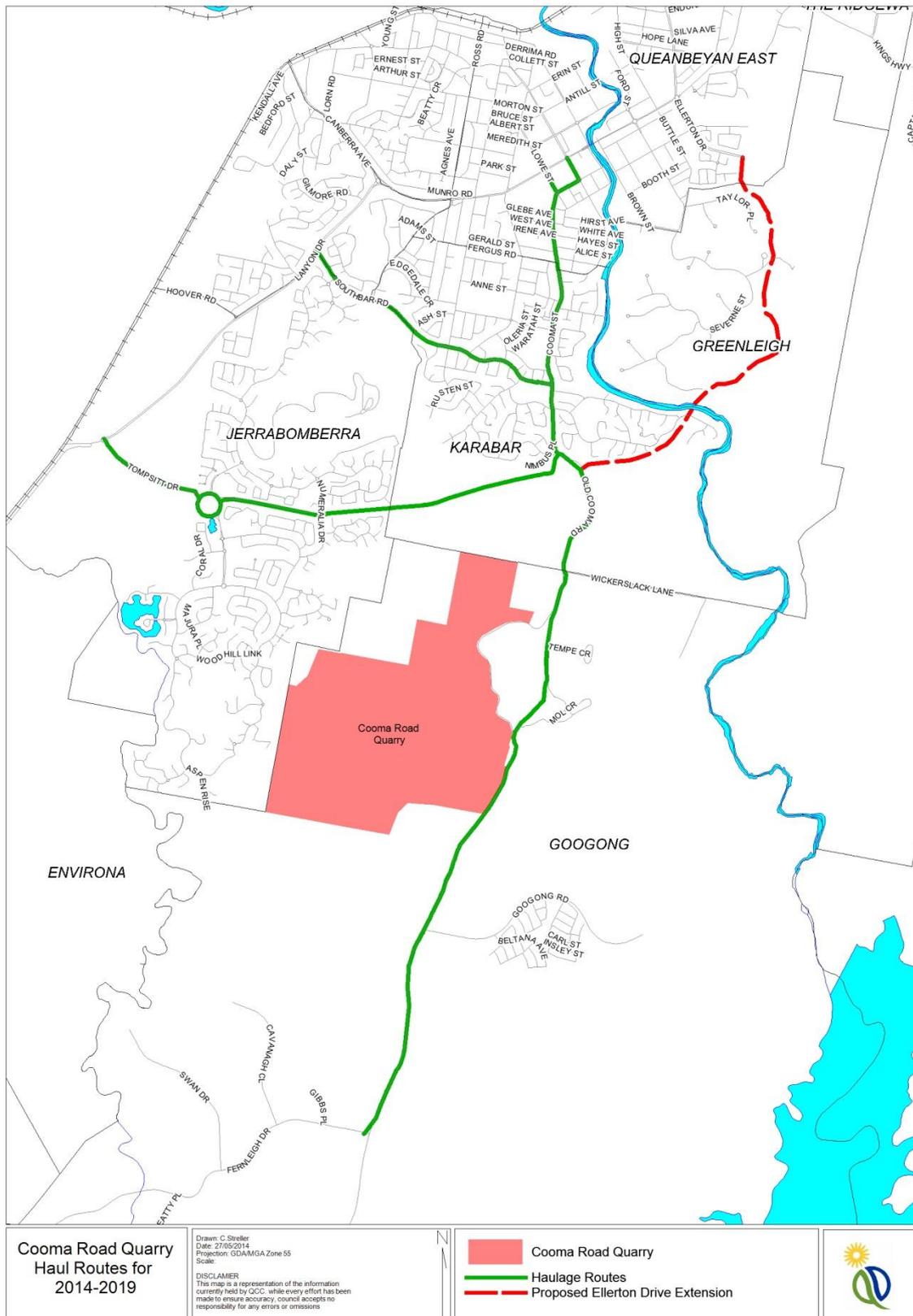


Figure 2: Haulage Routes for Cooma Road Quarry

Indexation of contributions required by a condition imposed under this plan

The contribution rate applicable at the time of payment under existing development consent shall be the indexed rate that would apply as if a new consent was to be issued, i.e. the current rate will be that which is indexed as explained above.

Method and timing of payment of monetary contributions

Payment of the monetary contributions at the applicable indexed rate must be:

- (a) paid to Council at the end of each calendar year and
- (b) based on weighbridge records of the quantity of quarry products and recycled concrete transported to and from the site.

Payments at the end of each calendar year shall be supported by quarterly (three months) weighbridge records of quantities of material certified by a company officer and a copy of the annual quarry production date.

Weighbridge records and payment is due within 30 days of the new calendar year. Late payment of contributions will be subjected to interest charges calculated from 1 January of each year at the appropriate rate of interest.

Pooling of funds

Council's ability to undertake road maintenance in sufficiently large sections to achieve a reasonable economy of scale is very limited where it is based on contributions received on an annual basis. To provide a strategy for the orderly delivery of the infrastructure, this plan authorises monetary contributions paid under this or any other contributions plan approved by the council to be pooled and applied progressively for those purposes.

The priorities for the expenditure of pooled monetary contributions under this plan are the priorities for works set out in the Works Schedule Table 1.

The Goods and Services Tax (GST)

Monetary contributions made under this plan are exempt from the Goods and Services Tax (GST) under the Commonwealth law.

Contribution register

A Council that imposes a section 94 condition must maintain a contributions register in accordance with the *EP&A Regulations*. The Register may be inspected on request. This Register will include:

- Details of each consent for which a developer contributions condition has been imposed;
- the nature and extent of the contribution required by the condition for each facility;
- the name of the Contribution Plan the condition was imposed under; and
- the date any contribution was received and its nature and extent.

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

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- a) opening and closing balances of money held in the Contributions Plan by the Council for the accounting period;
- b) total amounts received by way of monetary contributions under this Plan;
- c) total amount spent in accordance with this Plan; and
- d) outstanding obligations of the Council to provide works for which contributions have been received.

Part C: Works Schedule and Contribution Rate

The works schedule details all maintenance works including repair and upgrading works for which contributions will be paid under this Plan for haulage roads utilised by the Cooma Road Quarry development. Some works are carried out annually, while other work is needed less frequently and will be carried out when sufficient funds are available. An estimated 5 year work program has been provided because it is expected that in 5 years the Ellerton Drive Extension will be constructed and the nominated haulage routes in this works program will be reviewed.

Table 1: Section 94 - 5 year works program 2014-2019*

Road	Length (m)	Works	Project costs \$
Cooma Street	500m	Rehabilitate Pavement - Rutledge Street to Alice Street	185,000.00
Cooma Street	580m	Rehabilitate Pavement - Thorpe Avenue to Alanbar Street	210,000.00
Cooma Street	520m	Rehabilitate Pavement - Alanbar Street to Southbar Road	200,000.00
Cooma Street	650m	Rehabilitate Pavement - Southbar Road to Candlebark Road	250,000.00
Old Cooma Road	2000m	Shoulder widening and reseal - Googong Road to Fernleigh Road	250,000.00
Old Cooma Road	850m	Heavy patch and reseal - Wells Road to Burra Road	297,805.00
Old Cooma Road	1400m	Heavy patch and reseal - Burra Road to 300m south of Evans Road	100,000.00
Southbar Road	800m	Rehabilitate pavement - Kinsella Street to Tharwa Road	200,000.00
Rutledge Street	190m	Rehabilitate pavement - Lowe Street to Crawford Street	200,000.00
Lowe Street	200m	Rehabilitate pavement - Rutledge Street to Monaro Street	200,000.00
Edwin Land Parkway	130m	Repairs to roundabout entry/exits - Jerrabomberra Parkway roundabout	65,000.00
Tomsitt Drive	50m	Repairs to roundabout entry/exits - Lanyon Drive Roundabout	40,000.00
		Total	\$2,197,805.00

*Upon completion of the Ellerton Drive extension the works program will be adjusted to make allowance for the new haulage routes.

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Figure 2 maps the haulage routes to be maintained by council supported by a five year works program that contains an estimate of project costs.

Calculations for Cooma Road Quarry

Total project costs over 5 years

\$2,197,805/5yrs = \$439,561/year

Contribution rate

A contribution rate of \$0.2911 per tonne for every tonne of quarry product and/or recycled concrete transported to and from the Cooma Road Quarry site is set (as determined by the Minister for Planning and Infrastructure, consent dated 27 September 2013).

Maximum transport of quarry product per calendar year

1.5 million tonnes quarry products(out) + 10,000 tonnes of recycled concrete(in) = 1510000 t/year

Maximum total contributions per calendar year

1510000 t x \$0.2911 = \$439,561 (Note, only if maximum quantity of quarry product is reached each calendar year.)

Maximum total contributions over 5 years

\$439,561 x 5 = \$ 2,197,805 (Note, this is only if maximum quantity of quarry product is reached over 5 years.)

For any consent determined by Council the contribution rate will take account of the proportion of the actual annual maintenance costs attributable to the increase in heavy vehicles on the haulage routes identified by each development.

Prior to the commissioning of the Ellerton Drive extension local roads will be used by heavy haulage vehicles to distribute materials to and from the quarry. The works program identified in Table 1 is an estimated costing of the road upgrades that are required from 2014-2019. It is estimated that the roads identified in Table 1 will deteriorate in quality due to their use by heavy haulage vehicles over the next five years and money will be required to be spent on their upgrades.

The routes identified in the works program shall be reviewed for every proposed development and development consent issued to which this plan applies.

Ellerton Drive extension will bypass the Queanbeyan CBD and connect to the Kings Highway (east) taking pressure off local roads currently used as haulage routes by the Cooma Road Quarry (Southbar Road, Cooma Street, Crawford Street, Rutledge Street and Monaro Street). Detailed design of Ellerton Drive is underway with detailed design expected to be complete by 2015.

A condition of consent for the Cooma Road Quarry Continued Operations Project requires that the applicant shall not use Cooma Street north of the Edwin Land Parkway as a heavy vehicle transport route to/from the site (except for local deliveries). Following the opening of Ellerton Drive it is unlikely that contributions will be levied for local roads however this will be ascertained following a review of this plan.

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The Department has considered this scenario in the assessment of the 'Continued Operations Project'. Should Ellerton Drive extension not be commissioned within 5 years, the applicant is required (as a condition of development consent) to conduct an Independent Traffic Audit of the heavy vehicles routes associated with the development. Amongst other things, the audit must assess whether an alternative distribution of heavy vehicles and/or additional measures to reduce or mitigate any adverse (or potentially adverse) impacts on the local and regional road network is warranted.

Any new development will trigger the review of this plan and the identified haulage routes will be reviewed when Ellerton Drive is opened.

Appendix A - Definitions

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

Consumer Price Index means the *Consumer Price Index* (all Group Index) for Sydney as published by the Australian Statistician.

Council means Queanbeyan City Council.

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

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

Extractive Industries means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

Queanbeyan LGA means the Queanbeyan local government area.

Local Road Network means the road network within the Queanbeyan City.

Road means a public road or a private road within the meaning of the [Roads Act 1993](#), and includes a classified road.

public road means:

- (a) any road that is opened or dedicated as a public road, whether under this or any other Act or law, and
- (b) any road that is declared to be a public road for the purposes of this Act.

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (g1) a transitway,
- (h) a State work.

Quarry or quarried product means an extractive industry or material obtained from an extractive industry.

City means the City of Queanbeyan.