
**Section 94 Development
Contributions Plan**

**Eglinton Open Space and
Drainage**

Adopted: 17 October 2012
Effective Date: 20 October 2012

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Part A: Summary Schedules

Schedule 1 Drainage works

Identifier	Location	Description of works	Distance	Rate (\$ / Metre)	Estimated Cost	Completion rate
D1	Saltram Creek. Between Macquarie River and Eleven Mile Drive	Rock ramp within the creek line Variable width.	1700 m	\$258	\$439,025	Not commenced
D2	Drainage depression, west of Eglinton. Between Macquarie River and northern extent of expansion area.	Rock ramp within the drainage line Variable width.	2600 m	\$258	\$671,450	Not commenced

Schedule 2 Purchase of Open Space

Identifier	Location	Description of works	Area	Rate (\$ / hectare)	Estimated Cost	Completion rate
OS	The open space as marked 'OS' on the map marked "Eglinton Open Space and Drainage Section 94 Development Contributions Plan" attached to this Plan	Purchase of approximately 20 hectares of open space	Approximately 20 hectares	\$36,155	\$723,100	Not commenced

PART B: ADMINISTRATION AND OPERATION OF THE PLAN

1.0 Administration

1.1 Name of the Plan

This development contributions plan is called the “Section 94 Development Contributions Plan - Eglinton Open Space and Drainage”.

The plan will be reviewed as required and any amendments will be recorded in the following table:

Plan Title	Amendments	Adoption Date	Version Number
Section 94 Development Contributions Plan - Eglinton Open Space and Drainage	New Plan	dd MMMM yyyy	1.0

1.2 Commencement of the Plan

This development contributions plan has been prepared pursuant to the provisions of Section 94 of the Environment Planning and Assessment (EP&A) Act 1979 and Part 4 of the EP&A Regulation 2000. The Plan was adopted by Council at its meeting held 17 October 2012 and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the EP&A Regulation, 2000, that date being 20 October 2012.

1.3 Land to Which the Plan Applies

The Plan applies to land within the village of Eglinton bounded by the heavy black line on the map marked “Section 94 Development Contributions Plan - Eglinton Open Space and Drainage” attached to this Plan.

1.4 Purpose of the Plan

The primary purpose of this Plan is to satisfy the requirements of the Act and Regulations to enable the Council to require a contribution towards the provision, extension or embellishment of open space and drainage works that will be required as a consequence of development in the area or that have been provided in anticipation of or to facilitate such development.

Other purposes of this Plan are to:

- (i) Provide a comprehensive schedule of drainage works included in the Plan;
- (ii) Ensure an appropriate provision and distribution of open space throughout the area to meet the increased demand for open space generated by development commensurate with the needs of that population and general community expectations;

- (iii) Enable the Council to recoup the cost of providing open space and drainage works which have been provided in anticipation of development where such development will benefit from their provision;
- (iv) Ensure that the existing community is not burdened by the provision of open space and drainage works required as a result of future development.

1.5 Relationship to Other Plans and Policies

The Plan should be read in conjunction with the Bathurst Regional (Interim) Local Environmental Plan 2005, as amended or superseding local environmental plan(s) and the Bathurst Regional (Interim) Development Control Plan 2011, as amended.

1.6 When Contributions are to be Paid

Council will impose conditions of consent requiring payment of contributions in the following circumstances:

Development type	Payment required
a dual occupancy, granny flat or medium density residential development	prior to the issue of a Construction Certificate from Council or an accredited certifier.
a subdivision	prior to the release of the final subdivision certificate, or a subdivision certificate for any stage

1.7 Construction Certificates and the Obligation of Accredited Certifiers

In accordance with section 94EC of the Environmental Planning and Assessment Act and Clause 146 of the Environmental Planning and Assessment 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 a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to Council in accordance with clause 142(2) of the Environmental Planning and Assessment 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 alternative payment arrangement have been agreed to by Council. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed to with the applicant.

1.8 Council's Policy on Periodic Payments

The conditions under which the Council may accept payment by way of periodic payment for a staged development are that:

- The instalment be paid before the work commences on the relevant stage of the development;

- The amount to be paid at each stage is to be calculated on a pro-rata basis adjusted to the applicable rate, in accordance with Section 1.11 of this Plan.

1.9 Council's Policy on the acceptance of dedication of land in lieu of a contribution under this Plan

Council may in certain circumstances accept an offer by the applicant to provide a contribution through the dedication of land identified in this Plan in lieu of all or part of a cash contribution required under this plan.

An offer to provide land dedication is to be made to Council in writing prior to the determination of the development application and should clearly state:

- What land dedication is proposed;
- The value of the land dedication proposed. Note, For the purposes of the dedication of land, the value of the land dedication should be in accordance with the valuation report prepared in July 2011 by Ralph Toyer & Associates;
- The timing of the provision of the land dedication;
- What cash contributions it is proposed to offset.

Council is under no obligation of accept the land dedication, however, may consider doing so in the following circumstances:

- Where the value of the land dedication to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- Where the standard of the works is to Council's satisfaction.

Subject to prior agreement of Council, land may be dedicated in lieu of making a contribution (or part thereof) towards the acquisition of land. The land, the subject of the dedication must meet Council's requirements as determined by this plan (eg for the purpose of drainage or open space).

Council will generally only accept a dedication of land in lieu of or as an offset against a cash contribution under this Plan if:

- the land is identified as open space on the map attached to this Plan.
- the land, once dedicated, is able to be used for the purpose for which the contribution was originally sought;
- Council considers the dedication appropriate in the circumstances of the case.
- Council is satisfied with the environmental considerations including, without limitation the vegetation cover, soil condition, site contamination and the likelihood of flooding;
- the extent to which any easements (drainage/transmission lines) do not substantially prejudice the intended purpose/enjoyment of the open space.

In some circumstances, where the dedication of land exceeds the contribution due for the provision of this type of land, this excess value may (at the sole discretion of Council) be offset against other development contributions. Written confirmation of this should be sought from Council and cannot be automatically assumed.

The value to be attributed to the land dedicated will be the value shown within the valuation report dated July 2011 prepared by Ralph Toyer & Associates, being \$3.50 per square metre (2011 valuation) and indexed annually in line with the CPI.

1.10 Council's Policy on the acceptance of works in kind in lieu of a contribution under this Plan

Council may in certain circumstances accept an offer by the applicant to provide a works in-kind (WIK) contribution (i.e. the applicant completes part or all of works identified in the plan) in lieu of all or part of a cash contribution required under this plan for drainage works.

An offer to provide WIK is to be made to Council in writing prior to the determination of the development application and should clearly state:

- What WIK or land dedication is proposed;
- The value of the WIK proposed.
- The timing of the provision of the WIK;
- What cash contributions it is proposed to offset.

Council is under no obligation of accept the WIK, however, may consider doing so in the following circumstances:

- Where the value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- Where the standard of the works is to Council's satisfaction.

In some circumstances, where the works in kind exceed the contribution due for the provision of the development, this excess value may (at the sole discretion of Council) be offset against other development contributions. Written confirmation of this should be sought from Council and cannot be automatically assumed.

1.11 Review of Contribution Rates

The contribution rates will be indexed annually in accordance with the Consumer Price Index (CPI) or equivalent relevant indices.

The contributions stated in a development consent are calculated on the basis of the Section 94 contribution rates calculated in accordance with this Plan. If the contributions are not paid within the financial year 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 the time of payment and adjusted by the Consumer Price Index as published by the Australian Bureau of Statistics All Groups Percentage Changes. Indexation will take place 1 July each year.

The contribution rates for the current financial year are published by Council in its annual Management Plan and are available from Council offices.

1.12 Exemptions

Exemptions will not be given for any development outlined in the Contributions Plan without an express resolution of Council.

1.13 Planning Agreements

Council may seek to negotiate planning agreements for major developments in accordance with s93F of the EP&A Act. Major developments can include the following:

- Major Extractive industry;
- Tourism development with a construction value greater than \$10 million;
- Employment generating development that will employ 100 persons after construction;
- Residential development that creates more than 100 lots, where not covered by this Plan.

1.14 Pooling of Contributions

This plan expressly 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 the levies are shown in the works schedule.

1.15 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 lodgement of the application.

PART C: URBAN CHARACTERISTICS AND POPULATION

2.0 Urban Characteristics

2.1 Area

Bathurst Regional Local Government Area covers an area of approximately 3,821 square kilometres and is located in the Central West region of New South Wales. Eglinton is located approximately 5km north of Bathurst City and is described as an urban village with a low density residential environment.

Settlement of the area dates from the mid 1800s, with land used mainly for grazing and farming. Some growth took place during the late 1800s. Expansion resumed in the immediate post-war years, with more substantial development from the 1970s. Eglinton has a current population of approximately 1900 people (.id.com.au, 2011) (2006 Census).

Major features of the area include Eglinton War Memorial Hall, Cubis Park and one primary school.

2.2 Population

The table below outlines the estimated population for the catchment area and indicates the average people per dwelling, based on the 2006 Census. (ABS, 2012)

	Existing population of Eglinton	Estimated number of additional lots	Estimated population increase
Eglinton	2109	612	1775

3.0 Plan Objectives

The open space and drainage works are required to meet the new population to full development of the Eglinton New Release Area.

This Plan identifies:

- the demand for open space and drainage works required as a result of the urban development and re-development in the village of Eglinton;
- the open space and drainage works which will be required to meet those demands (for which development contributions could reasonably be charged); and
- the reasonable contribution which should be levied on new development to meet those demands.

Contributions are rounded to the nearest dollar.

This Plan supports objectives 6, 7, 17, 24, 28 & 29 of the Bathurst 2036 Community Strategic Plan.

3.1 Nexus

Nexus is one of the key principles which underpin the developer contributions system along with reasonableness, apportionment and accountability. Nexus refers to the relationship between the proposed development and the demand for public facilities and services created by the development. A contribution levied must be for an increased demand for a public facility or service that is caused by the development.

There are three aspects to nexus:

- Causal nexus – the proposed development creates a need or increases the demand for a particular public facility or service;
- Spatial or physical nexus – the proposed public facility or service will be located to serve the needs of those who created the demand for it;
- Temporal nexus – the proposed public facility or service will be provided within a reasonable time to benefit those who contributed towards it.

3.2 Apportionment

Apportionment is the “fairness” principle. It means that new development only pays the full cost of a service or facility if it can be shown that it exclusively causes the increased demand. Where the service or facility proposed will benefit both the existing and new population, the cost of provision of that service or facility is apportioned between the existing development being the Council’s contribution, and new development.

With respect to this Plan, the provision of the additional open space and drainage works identified in the Plan is apportioned to the additional population only. The additional population will create the additional demand for the open space and drainage works.

3.3 Reasonableness

Reasonableness embraces the concept of fairness and equity. Legal precedent from case law decisions in NSW has established that Section 94 contributions must:

- relate to a clear planning purpose;
- relate to the subject development, which must derive some benefit from open space, recreation and community facilities provided; and
- be reasonable such that a planning authority can properly impose it.
- be used to provide facilities in a reasonable timeframe taking into account the nature of the development and the type of facility.

Section 94 (2) (b) of the Act contains principles of reasonableness. Imposing excessive or unreasonable contribution rates could adversely affect housing affordability and economic viability of projects. In such cases it is important to balance these factors to meet the needs of existing and future residents of Eglinton.

3.4 Accountability

The Council needs to be able to demonstrate that it is accountable for all contributions made under the provisions of section 94 and be transparent in the allocation of those funds in accordance with the Schedule of Works identified in the plan. Development and subsequent population growth rates will be monitored to ensure that the Plan remains relevant and delivery of services and facilities occurs in accordance with the Plan.

3.5 Population Increase

Council recently prepared a Planning Proposal to rezone approximately 100 hectares of land surrounding the existing village of Eglinton, yielding approximately 612 lots (lot yield of 8 lots per hectare, excluding open space). Based on 2.9 persons per dwelling (ABS, 2012), this equates to approximately 1775 new residents for the village.

3.6 Meeting Needs of the Population

The incoming population will be primarily distributed on the fringe of the village of Eglinton with some penetration within the existing village. This additional population will create increased demand for open space, stormwater drainage systems and administration of this section 94 Plan.

4.0 Drainage projects

4.1 Saltram Creek between Macquarie River and Eleven Mile Drive

As a result of the expanded village, the construction of in-stream rock ramps in accordance with Council's Engineering Standards and Guidelines will be required in Saltram Creek.

4.1.1 Nexus between Development and Demand

Causal Nexus

Additional residential development will increase the level of stormwater being generated from the village. The construction of a rock ramp within Saltram Creek will mitigate against erosion within Saltram Creek.

Physical Nexus

The existing stormwater disposal arrangements are adequate for the existing village of Eglinton. Additional development within the village of Eglinton will place additional demand on Saltram Creek, requiring remediation works to be completed. Therefore, it is justified that all new residential development contribute towards the costs of embellishment of Saltram Creek with rock ramps.

Temporal Nexus

The timing of works will be in accordance with the priorities as outlined in the schedule of works. However, the timetable for the completion of the works is subject to change dependent on the rate subdivision of land.

4.1.2 Calculation of Contribution Rates

All rates are determined to the nearest dollar.

$$C_{lot} = \frac{TC}{T_{lot}}$$
$$C_{lot} = \frac{\$439,025}{612}$$
$$C_{lot} = \$717$$

C_{lot} = the contribution rate per lot
 TC = the total cost to Bathurst Regional Council (less any grant or reserve funds)
 T_{lot} = the total estimated lot yield from the Eglinton Expansion Planning Proposal

4.2 Drainage depression west of Eglinton Extension, between Macquarie River and northern boundary of Eglinton Expansion

As a result of the expanded village, the construction of in-stream rock ramps in accordance with Council's Engineering Standards and Guidelines will be required within the drainage depression on the western side of the expanded village.

4.2.1 Nexus between Development and Demand

Causal Nexus

Additional residential development will increase the level of stormwater being generated from the village. The construction of a rock ramp within the drainage depression west of Eglinton will reduce the erosion within that drainage line.

Physical Nexus

The existing stormwater disposal arrangements are adequate for the existing village of Eglinton. Additional development within the village of Eglinton will place additional demand on the drainage depression draining stormwater to the Macquarie River, requiring remediation works to be completed. Therefore, it is justified that all new residential development contribute towards the costs of embellishment of the drainage depression west of Eglinton with a rock ramp.

Temporal Nexus

The timing of works will be in accordance with the priorities as outlined in the schedule of works. However, the timetable for the completion of the works is subject to change dependent on the rate subdivision of land.

4.2.2 Calculation of Contribution Rates

All rates are determined to the nearest dollar.

$$C_{lot} = \frac{TC}{T_{lot}}$$
$$C_{lot} = \frac{\$671,450}{612}$$
$$C_{lot} = \$1097$$

C_{lot} = the contribution rate per lot
 TC = the total cost to Bathurst Regional Council (less any grant or reserve funds)
 T_{lot} = the total estimated lot yield from the Eglinton Expansion Planning Proposal

4.3 Purchase of open space

As a result of the expanded village, the purchase of open space surrounding the village of Eglinton will be required to provide:

- A buffer to surrounding rural lands
- An access corridor around the village
- For the recreational demands of new residents.

4.3.1 Nexus between Development and Demand

Causal Nexus

Additional residential development will increase the demand for open space within close proximity to the new residential developments. Also the open space is required to provide a buffer between the expanded residential areas and the surrounding rural lands.

Physical Nexus

The existing open space areas within Eglinton are adequate for the existing village. Additional residential development within the village of Eglinton will increase demand for open space. Further the need to provide for a buffer to rural lands relates to the new residential development. Therefore, it is justified that all new residential development contribute towards the costs of purchasing the open space.

Temporal Nexus

The timing for the purchase of the open space will only occur as part of an application for subdivision.

4.3.2 Calculation of Contribution Rates

All rates are determined to the nearest dollar.

$$TC = C_{sqm} \times landarea_{sqm}$$

$$C_{lot} = \frac{TC}{T_{lot}}$$

$$C_{lot} = \frac{\$3.61 \times 200,000}{612}$$

$$C_{lot} = \$1182$$

C_{sqm} = the land value shown within the valuation report dated July 2011 prepared by Ralph Toyer & Associates, being \$3.50 per square metre (2011 valuation) and indexed annually in line with the CPI

C_{lot} = the contribution rate per lot

TC = the total cost to Bathurst Regional Council (less any grant or reserve funds)

T_{lot} = the total estimated lot yield from the Eglinton Expansion Planning Proposal

4.4 Total contribution rate

The table below provides the total cost of works identified within this Plan and the contribution rate per lot.

Identifier	Cost	Cost Per Lot (612 additional lots)
D1	\$439,025	\$717
D2	\$671,450	\$1,097
OS	\$723,100	\$1,182
TOTAL	\$1,869,730	\$2,996

5.0 Schedule of works

5.1 Drainage works

Identifier	Location	Description of works	Distance	Rate (\$ / Metre)	Estimated Cost	Completion rate
D1	Saltram Creek. Between Macquarie River and Eleven Mile Drive	Rock ramp within the creek line Variable width.	1700 m	\$258	\$439,025	Not commenced
D2	Drainage depression, west of Eglinton. Between Macquarie River and northern extent of expansion area.	Rock ramp within the drainage line Variable width.	2600 m	\$258	\$671,450	Not commenced

5.2 Purchase of Open Space

Identifier	Location	Description of works	Area	Rate (\$ / hectare)	Estimated Cost	Completion rate
OS	The open space as marked 'OS' on the map marked "Eglinton Open Space and Drainage Section 94 Development Contributions Plan" attached to this Plan	Purchase of approximately 20 hectares of open space	Approximately 20 hectares	\$36,155	\$723,100	Not commenced

6.0 Contribution Rate

The table below provides the total cost of works identified within this Plan and the contribution rate per lot.

Identifier	Cost	Cost Per Lot (612 additional lots)
D1	\$439,025	\$717
D2	\$671,450	\$1,097
OS	\$723,100	\$1,182
TOTAL	\$1,869,730	\$2,996

For granny flats, dual occupancies, residential units / multi dwelling housing, the apportioned rate applies in accordance with the table below.

	1 Bedroom	2 Bedroom	3 Bedroom	4 or more Bedroom
Apportionment of the Lot rate	40%	60%	80%	100%
Cost per dwelling type	\$1,198	\$1,798	\$2,396	\$2,996

The rates in the above tables will be adjusted on 1 July annually in accordance with Section 1.11 of this Plan.

7.0 Definitions

Capital Costs means all of the costs of a one-off nature designed to meet the cost of providing, extending or augmenting infrastructure.

Catchment means a geographic or other defined area to which a contributions plan applies.

Commercial means a building or place used as an office, place of business or other commercial purpose from which an income is derived.

Community Infrastructure means infrastructure of a communal, human or social nature, which caters for the various life-cycle needs of the public including but not limited to childcare facilities, community halls, youth centres, aged persons facilities.

Contributions Plan means a public document prepared by Council pursuant to s94EA of the Environmental Planning and Assessment Act.

Development means:

- The erection of a building on that land
- The carrying out of a work in, on, over or under that land
- The use of that land or of a building or work on that land
- The subdivision of that land.

Developer contribution means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

Extractive Industry means:

- (a) the winning of extractive material; or

(b) an undertaking, not being a mine, which depends for its operation on the winning of extractive material from the land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

Material Public Benefit does not include the payment of a monetary contribution or the dedication of land free of cost.

Nexus means the relationship between the expected types of development in the area and the demand for additional public facilities to meet that demand.

Planning agreement means a voluntary agreement referred to in s93F of the Environmental Planning and Assessment Act.

Planning authority means:

- A council, or
- The Minister, or
- The corporation, or
- A development corporation (within the meaning of the Growth Centres (Development Corporations) Act 1974), or
- A public authority declared by the EP&A Regulations to be a planning authority for the purposes of this Division.

Planning benefit means a development contribution that confers a net public benefit, that is, a benefit that exceeds the benefit derived from measures that would address the impacts of particular development on surrounding land or the wider community.

Planning obligation means an obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution.

Public includes a section of the public.

Public benefit is the benefit enjoyed by the public as a consequence of a development contribution.

Public facilities means public infrastructure, facilities, amenities and services.

Public purpose is defined in s93F(2) of the Environmental Planning and Assessment Act to include the provision of, or the recoupment of the cost of providing public amenities and public services (as defined in s93C), affordable housing, transport or other infrastructure. It also includes the funding of recurrent expenditure relating to such things, the monitoring of the planning impacts of development and the conservation or enhancement of the natural environment.

Recurrent costs mean any cost which is of a repeated nature that is required for the operation or maintenance of a public facility.

Region means the Bathurst Regional Council Local Government Area.

Thresholds means the level at which the capacity of an infrastructure item is reached or the event which triggers the requirement for provision of a facility.

Utility service means basic engineering services such as power, water, sewerage and telecommunications.

Works-in-Kind means the construction or provision of the whole or part of a public

facility that it identified in a works schedule in a contributions plan.

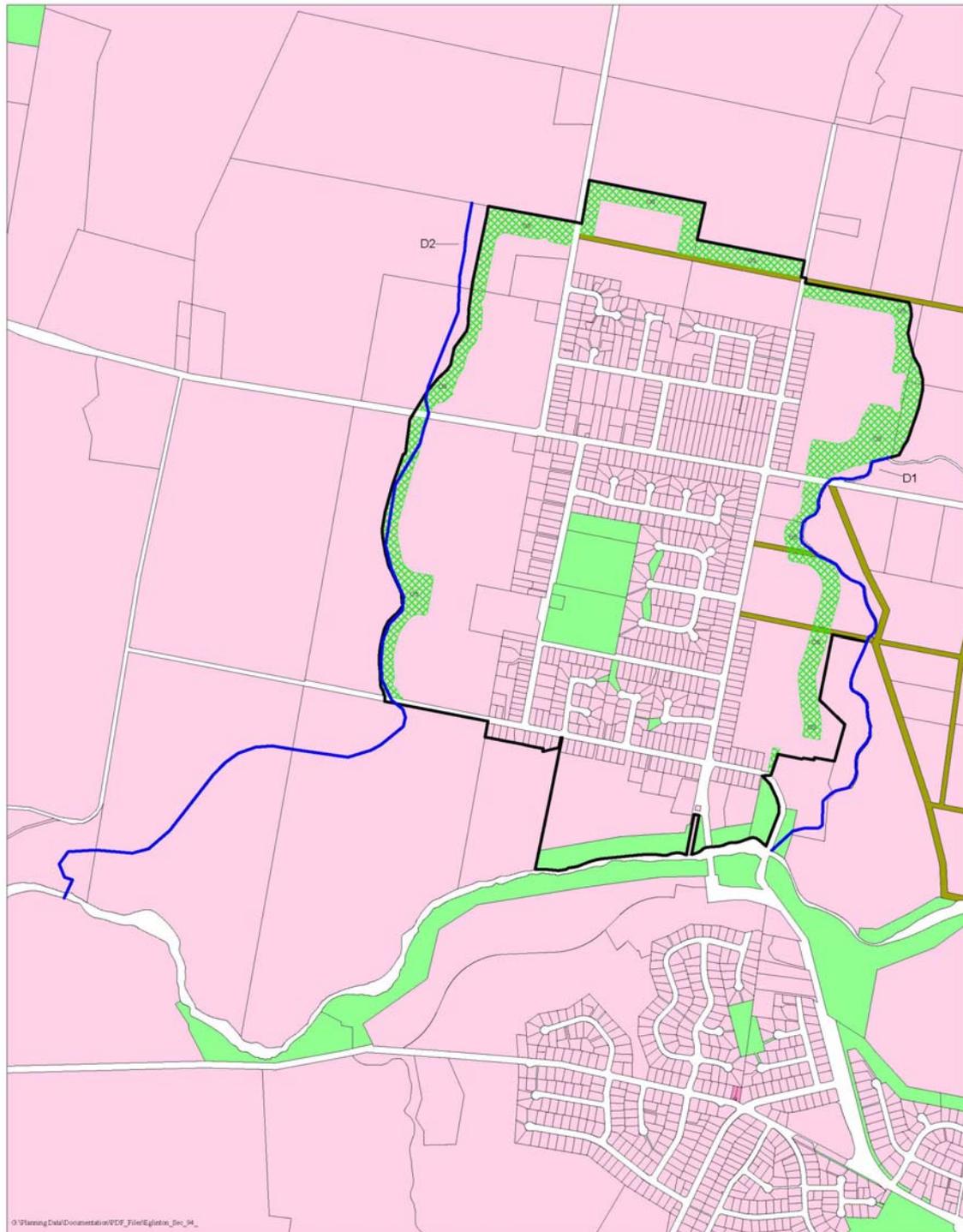
8.0 References:

ABS, 2012. 2011 Census Quickstats Eglinton.

http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/SSC10798?opendocument&navpos=220 Last accessed 31 July 2012.

9.0 Map

EGLINTON OPEN SPACE & DRAINAGE SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN



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Bathurst Regional Council expressly disclaims all liability for errors or omissions of any kind whatsoever, or any loss, damage or other consequence which may arise from any person relying on information in this Plan

Date 08/08/2011

Note: The colours on this Plan do not indicate landuse zones under the Bathurst Regional (Interim) Local Environment Plan 2005.

Base Map: © Department of Lands 2006