

# Western Corridor Section 94 Contributions Plan

August 2013

# Western Corridor

## Section 94 Contributions Plan



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## 1.0 Summary of Plan

### 1.1 Preamble

The Western Corridor is an urban release area centred on the localities of Minmi, Fletcher and Maryland in the western part of the Newcastle local government area (LGA).

Development of the Western Corridor is well advanced, but is only partly complete. Significant additional development in the south and west of the area, is yet to be determined.

The Local Infrastructure needs of the area have historically been managed through conditions of consent issued under pre-existing contributions plans and planning agreements negotiated with local developers. This Plan describes the Local Infrastructure that is demanded by the remainder of the Western Corridor development, and the contributions of land and works from Western Corridor developers that will be required.

The required Local Infrastructure includes:

- open space and recreation facilities, such as local and district sporting facilities, local parks and playgrounds;
- community facilities, such as multi-purpose community centres; and
- traffic and transport management facilities, such as upgraded roads, intersections and cycle paths.

### 1.2 Summary of contribution rates and works schedule costs

Table 1.1 shows the contribution rates applicable to development the subject of this Plan, and the total value of works to be funded by contributions anticipated under this Plan.

**Table 1.1 Works and contribution rates summary schedule**

Infrastructure type	Land and works cost to be met by development	Contribution rates			
		Per PM peak trip	Per person	Per dwelling (except seniors housing)	Per self-contained seniors housing dwelling
Traffic and Transport	\$2,900,382	\$1,009		\$858	\$202
Social Infrastructure	\$34,297,350		\$3,835.11	\$11,505.32	\$5,752.66
Total	\$37,953,744			\$12,363.32	\$5,954.66

### 1.3 Overview and structure of Plan

Section 94 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) authorises a consent authority responsible for determining a development application to grant consent to a proposed development subject to a condition requiring development contributions of cash and/ or land towards the provision of public amenities and public services (i.e. Local Infrastructure) to meet that development.

Where the consent authority is a council or an accredited certifier, such a contribution may be imposed on a development only if it is of a kind allowed by and determined in accordance with a contributions plan, such as this Plan.

This Plan has been prepared to authorise the imposition of section 94 contributions on development expected to occur in the Western Corridor area of the Newcastle LGA.

This Plan has been prepared in accordance with the EP&A Act and *Environmental Planning and Assessment Regulation 2000* (**EP&A Regulation**), including the requirement for the Plan to have had regard to the latest Practice Notes issued by the NSW Department of Planning and Infrastructure.

There are minimum requirements as to the form and subject matter of section 94 contributions plans that are set out in the EP&A Regulation. Each requirement, and reference to the clause or Part of this document that deals with that requirement, are listed in Table 1.2.

**Table 1.2 Contributions plan requirements**

EP&A Regulation requirement	Reference in this Plan
The purpose of the plan	Clause 2.6
The land to which the plan applies	Clause 2.8
The relationship or nexus between the expected development in the area and the community infrastructure that is required to meet the demands of that development	Background Document
The formulas to be used for determining the reasonable contributions required from expected development for different types of community infrastructure	Clauses 3.2.1 and 3.2.2
The contribution rates for the anticipated types of development in the area	Clause 1.2
The council's policy concerning the timing of the payment of monetary section 94 contributions, and the imposition of section 94 conditions that allow deferred or periodic payment	Clauses 2.16 and 2.17
Maps showing the specific public amenities and services proposed to be provided by the council, supported by a works schedule that contains an estimate of their cost and staging (whether by reference to dates or thresholds)	Tables 3.2 and 3.3
If the plan authorises monetary section 94 contributions or section 94A levies paid for different purposes to be pooled and applied progressively for those purposes, the priorities for the expenditure of the contributions or levies, particularised by reference to the works schedule	Tables 3.2 and 3.3

The Plan is structured in the following Parts:

- Part 1 (this Part) contains an introduction and summary schedules.
- Part 2 contains provisions that describe the contributions framework, essential details of the Plan, and how section 94 contributions for development in the CFPP will be imposed, settled and managed.
- Part 3 provides summaries of the expected development, and the proposed infrastructure provision for meeting that development, including works schedules and maps.

A Background Document accompanies this Plan, should be read in conjunction with this Plan.

The Background Document includes the following:

- Details on how the proposed schedule of Local Infrastructure levied under this Plan was derived.
- Details on the likely or expected development in the study area. These are assumptions that have informed the type, scale and location of public amenities and services included in the Plan.
- Discussion on the relevance of the Council's current contributions plans that apply to the Western Corridor lands to the new contributions plan, and a strategy for dealing with contributions receipts under the current plans.

## 2.0 Administration and operation of the Plan

### 2.1 Name of the Plan

This Plan is called the *Western Corridor Section 94 Contributions Plan*.

### 2.2 Definitions used in this Plan

Except where indicated in this clause, the definitions of terms used in this Plan are the definitions included in the EP&A Act, EP&A Regulation and Newcastle Local Environmental Plan 2012.

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

**Attributable cost** means the estimated cost for each item in the works schedules set out in the 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.

**Council** means Newcastle City Council.

**CPI** means the *Consumer Price Index (All Groups - Sydney)* published by the Australian Statistician.

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

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

**Local Infrastructure** means public amenities or public services in section 93C of the EP&A Act.

**LGA** means local government area.

**CP 1** means *Development Contributions Plan No. 1 (2005)* adopted by the Council.

**CP4** means *Development Contributions Plan No. 4 (2006)* adopted by the Council.

**Residential Accommodation** has the same meaning as in *Newcastle Local Environmental Plan 2012*.

**Traffic Study** means City of Newcastle Western Corridor Traffic and Transport Study, prepared by Better Transport Futures.

**Works-in-kind** 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 as a means of either fully or partly satisfying a condition of consent requiring development contributions to be made.

**Works schedule** means the schedule of the specific Local Infrastructure for which contributions may be required as set out in Part 3 of this Plan.



## 2.3 What are development contributions?

Development contributions are contributions toward the provision of Local Infrastructure imposed on developments approved under the EP&A Act.

Contribution requirements may be in the form of the dedication of land free of cost, or the payment of a monetary contribution.

Contribution requirements may be settled by either of these means, or by the provision of a 'material public benefit' such as the provision of a work-in-kind.

There are different classes of development contributions provided for under the EP&A Act:

- Special infrastructure contributions;
- Local Infrastructure contributions, which may be either section 94 contributions or section 94A fixed rate levies;
- contributions included in voluntary planning agreements; and
- contributions toward the provision of affordable housing.

This Plan is principally concerned with the imposition of conditions of consent requiring Local Infrastructure contributions under section 94 of the EP&A Act.

## 2.4 Prerequisites for imposing contribution requirements in consents

### 2.4.1 Contributions must be authorised by a contributions plan

The EP&A Act provides that a council (or an accredited certifier) can require, through imposition of a condition or conditions on a development consent (or on a complying development certificate), development contributions if:

- there is a contributions plan applying to the development that is in force and that authorises the contribution (such as this Plan); and
- the contribution is imposed in accordance with the provisions of such a plan.

Accredited certifiers are further restricted to imposing only development contributions being monetary contributions on a consent.

As an alternative to, or in addition to, the levying of section 94 contributions, a council may negotiate a planning agreement with a developer for the provision of Local Infrastructure.

Council may seek to negotiate planning agreements with relevant parties in relation to major developments. Such agreements may address the substitution of, or be in addition to, the contributions required under this Plan.

Any draft planning agreement shall be subject to any provisions of or Ministerial Directions made under the EP&A Act or EP&A Regulation relating to planning agreements.

### 2.4.2 Section 94 contributions must be reasonable

Section 94 contributions must be reasonable in the particular circumstances of each development. That is, a section 94 contribution must be proportional to the relationship (or 'nexus') that exists between the development being levied and the need for the public amenity or service for which the contribution is required.

Section 94 contributions may be imposed on developments to meet the cost of facilities yet to be provided; and to recoup the cost of facilities that have already been provided in advance of development occurring.

A condition may only be imposed under section 94 towards the future provision of public facilities:

- if the proposed development will or is likely to require the provision of, or increase the demand for, Local Infrastructure within the local government area; and
- to require only a reasonable dedication or monetary contribution for the provision, extension or augmentation of the Local Infrastructure concerned.

A condition may be imposed under section 94 towards the recoupment of the cost of Local Infrastructure if:

- the consent authority has, at any time, provided Local Infrastructure within the LGA in preparation for or to facilitate the carrying out of development in the area, and
- development for which development consent is sought will, if carried out, benefit from the provision of the Local Infrastructure.

A person entitled to act on a development consent may, under section 94B of the EP&A Act, appeal the reasonableness of a section 94 condition that is imposed in accordance with a contributions plan. Such a condition may be disallowed or amended by the Land and Environment Court because it is unreasonable in the particular circumstances of that case, even if it was determined in accordance with the relevant contributions plan.

## 2.5 Cap on monetary section 94 contributions

As part of the State Government's strategy to stimulate housing construction, increase housing supply and improve housing affordability in NSW, the Government has set limits on the total monetary section 94 contributions that a consent authority may impose on developments.

The Minister for Planning issued a Direction to the Council under section 94E of the EP&A Act effective from 28 August 2012 that restricts consent authorities from imposing conditions of consent requiring monetary section 94 contributions on development for residential lots or dwellings in excess of the monetary cap specified by or under the Direction.

The monetary cap applying to residential development on the land to which this Plan applies is \$20,000 per lot or dwelling.

The contribution rates included in this Plan are consistent with that Direction.

## 2.6 Purposes of the Plan

The primary purpose of the Plan is to authorise Council or accredited certifiers:

- when granting consent to an application to carry out development to which this Plan applies, or
- when issuing a complying development certificate for development to which this Plan applies,

to require a contribution to be made towards either / both the provision, extension or augmentation of Local Infrastructure and the recoupment of the cost of providing existing Local Infrastructure.

Other purposes of the Plan are:

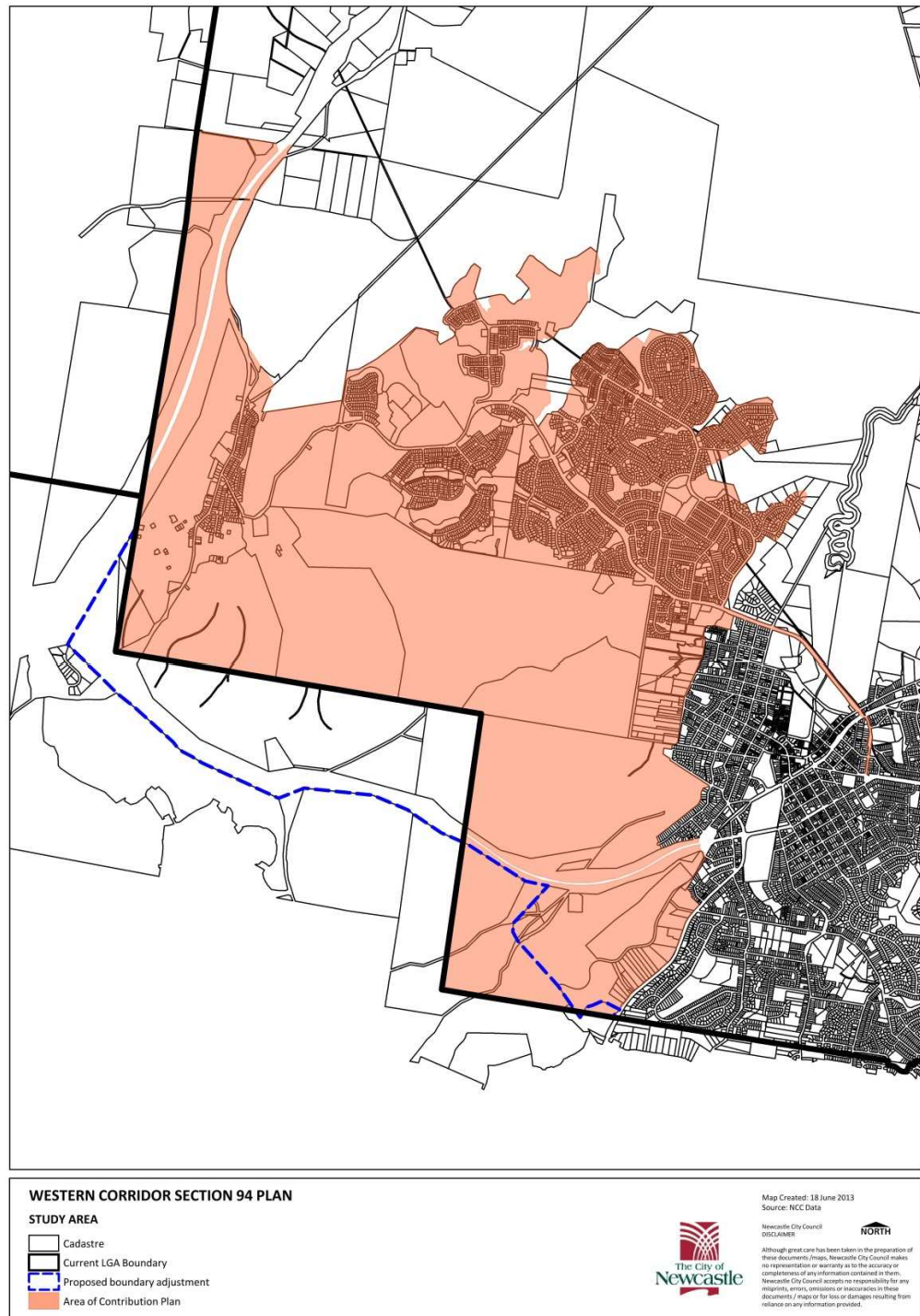
- to provide the framework for the efficient and equitable determination, collection and management of development contributions toward the provision of Local Infrastructure generated by development within the Western Corridor;
- to determine the demand for Local Infrastructure generated by the incoming population to the area and ensure that development makes a reasonable contribution toward the provision of that Local Infrastructure;
- to ensure (within the limits imposed by Ministerial Directions) that the existing community is not unreasonably burdened by the provision of Local Infrastructure required (either partly or fully) as a result of development in the area; and
- to ensure Council's management of development contributions complies with relevant legislation and guidelines.

## 2.7 Commencement of the Plan

This Plan commences on 13 January 2014.

## 2.8 Land to which Plan applies

This Plan applies to all of the land identified in Figure 1.



**Figure 1 Land to which this Plan applies**

## 2.9 Development to which this Plan applies

Except as provided for by this clause, this Plan applies to all Residential Accommodation development that will or is likely to require the provision of or increase the demand for Local Infrastructure.

This Plan does not apply to development:

- for the purpose of a single dwelling on a single allotment that was the subject of a section 94 contribution that has already been paid; or
- for the purpose of alterations and additions to existing dwellings; or
- ordinarily incidental or ancillary to the use of a dwelling, such as swimming pools, garages, sheds, tree applications and the like; or
- for the purposes of seniors housing by a social housing provider within the meaning of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*; or
- for demolition (where there is no replacement building or development); or
- for which Council considers an exemption warranted, where a decision is made by formal ratification of the Council at a public Council meeting.

Applicants for the above developments may be required to provide written justification for exemption from section 94 contributions under this Plan.

## 2.10 Relationship to other contributions plans

For the purposes of this clause, a 'pre-existing contributions plan' means the following:

- *Development Contributions Plan No. 1, 2005 (CP1)*; and
- *Development Contributions Plan No. 4, 2006 - Transport Facilities in Blue Gum Hills (CP4)*.

This Plan applies to the development of land shown in Figure 1 that has not been the subject of a section 94 contribution imposed under a pre-existing contributions plan.

Where a consent includes a contribution imposed under a pre-existing contributions plan, and that consent has lapsed, then any future development on the land the subject of that lapsed consent shall be assessed against, and be subject to the provisions of, the pre-existing contributions plans.

Similarly, where a consent includes a contribution imposed under a pre-existing contributions plan, and that development has been commenced but has not yet been completed, then any future development on the land the subject of that consent shall be assessed against, and be subject to the provisions of, the pre-existing contributions plans.

## 2.11 Allowances for existing development in the calculation of contributions

Monetary contributions determined under this Plan will be calculated according to the estimated net increase in demand for the particular items of Local Infrastructure that are included in this Plan and that a particular development is projected to generate.

In calculating contributions under this Plan an allowance will be made for the demand for social infrastructure assumed to be attributable to existing development on a development site.

**Table 2.1 Assumed household occupancy rates**

Dwelling Type	Assumed Occupancy Rate
Standard residential lot	3.0 persons per dwelling
Dwellings	3.0 persons per dwelling
Self-contained seniors' housing dwelling	1.5 persons per dwelling

The contribution required from a development for social infrastructure will only be due to any net increase in population relating to the proposed development, which is the total proposed population increase less any credits calculated using the assumptions in Table 2.1.

## 2.12 Section 94 contributions may be required as a condition of consent

This clause authorises consent to require contributions of money and / or land on development consents, as follows.

### 2.12.1 Monetary contributions

This Plan authorises the Council or an accredited certifier, when determining a development application or an application for a complying development certificate, to impose a condition under section 94 of the EP&A Act requiring the payment of a monetary contribution towards:

- the provision, extension or augmentation of Local Infrastructure to meet the demands of the development; or
- the recoupment of the cost of Local Infrastructure previously provided in advance of development within the area.

### 2.12.2 Land contributions

This Plan authorises the Council, by imposition of a condition of development consent, to require in connection with any development on land to which this Plan applies (and in addition to any monetary contribution that may be sought) the dedication free of cost to the Council of any part of the development site that is land that is to be acquired under this Plan.

The area of land that may be required in the consent shall not exceed the area equivalent to the monetary contribution otherwise authorised by this Plan. Council will credit only the amount provided in the Plan.

For the purposes of this clause, the value of the land is to be calculated in accordance with the value of the land as indexed by the provisions of clause 2.14 of this Plan.

The monetary development contribution otherwise authorised by this Plan shall be reduced by an amount corresponding to the value of the land required to be dedicated.

Where the value of the land exceeds the monetary development contribution otherwise authorised, the developer may offer to enter into a planning agreement dealing with an appropriate settle-up in exchange for the dedication of the remainder.

### **2.13 Obligations of accredited certifiers**

In relation to an application made to an accredited certifier for a complying development certificate:

- the accredited certifier must, if a complying development certificate is issued, impose a condition requiring a section 94 contribution, if such a contribution is authorised by this Plan; and
- any such contribution may only be a monetary contribution required under this Plan; and
- the amount of the monetary contribution that the accredited certifier must so impose is the amount determined in accordance with this Plan in respect of the development.

It is the responsibility of the principal certifying authority to accurately calculate and apply the Local Infrastructure contribution conditions to complying development certificates. Deferred payments of contributions required by a condition of a complying development certificate will not be accepted.

Likewise, it is the responsibility of an accredited certifier issuing a construction certificate to certify that the contributions have been paid to Council prior to the issue of the certificate. The accredited certifier must ensure that the applicant provides a receipt (or 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. Failure to follow this procedure may render such a certificate invalid and expose the certifier to legal action.

The only exceptions to the requirement are where a works-in-kind, material public benefit, dedication of land and/or deferred payment arrangement has been agreed by the Council. In such cases the Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

### **2.14 Adjustment of contribution rates under this Plan**

The purpose of this clause is to ensure that the monetary contribution rates imposed at the time of development consent reflect the indexed cost of the provision of Local Infrastructure included in this Plan.



Council may, without the necessity of preparing a new or amending contributions plan, make changes to the monetary section 94 contribution rates set out in this Plan to reflect quarterly changes to the Consumer Price Index.

The contribution rate for works schedule items will be indexed (subject to the Note) as follows:

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

Base CPI

Where:

$\$C_A$  is the contribution rate for works schedule items (other than land yet to be acquired) at the time of adoption of the Plan expressed in dollars

Current CPI is the most recent quarterly level of 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 the date of adoption of this Plan

Note: The contribution rate will not be less than the contribution rate specified at the date of the adoption of this Plan.

## 2.15 Adjustment of contributions required by a condition imposed under this Plan

The purpose of this clause is to ensure that the monetary contributions at the time of payment reflect the indexed cost of the provision of Local Infrastructure included in this Plan.

A contribution required by a condition of development consent imposed in accordance with this Plan may require indexation of the contribution between the date of the grant of the consent and the date on which the contribution is made as follows.

The total contribution for all work schedule items at the time of payment is determined (subject to the Note) by the following formula:

$$\frac{\$C_C \times \text{CPI}_P}{\text{CPI}_C}$$

CPI<sub>C</sub>

Where:

$\$C_C$  is the contribution amount for all works schedule items (other than land yet to be acquired) shown in the development consent expressed in dollars



CPI<sub>P</sub> is the most recent quarterly level of the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician at the time of the payment of the contribution

CPI<sub>C</sub> is the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Statistician which applied at the time of the issue of the development consent

Note: The contribution payable will not be less than the contribution specified on the development consent.

## **2.16 Timing of payment of monetary contribution required under this Plan**

Monetary contributions required under this Plan shall be paid to the Council at the time indicated in the development consent.

## **2.17 Policy on deferred or periodic payments**

Deferred or periodic payments may be permitted in the following circumstances:

- Deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of the items of Local Infrastructure included in this Plan's works program; or
- In other circumstances considered reasonable by Council.

For a deferred or periodic payment to be considered, the applicant must satisfy to Council that:

- There are valid reasons for deferred or periodic payment;
- No prejudice will be caused to the community deriving benefit from the services being provided under this Plan; and
- No prejudice will be caused to the efficiency and operation of this Plan.

If Council does decide to accept deferred or periodic payment, Council may require the applicant to provide a bank guarantee for the full amount of the contribution or the outstanding balance on condition that:

- (a) The bank guarantee be issued by an Australian bank or a bank in Australia for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest.
- (b) Any charges associated with establishing or operating the bank security are payable by the applicant.
- (c) The bank guarantee must carry specific wording identifying the exact obligation to which it relates (i.e. section 94 development contributions for development of Lot x DP xxx under Development Consent No. xxx)
- (d) The bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work.

- (e) The bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development.
- (f) The bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required.
- (g) Where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

Deferred or periodic payments may be permitted, in accordance with the above requirements, only with approval of the Council Officer(s) whose position(s) holds the required Council delegations.

## **2.18 Dedication of land, or provision of works-in-kind or other material public benefits offered in part or full satisfaction of contribution requirements**

A person may make an offer to the Council to carry out works or provide another kind of material public benefit or dedicate land, in lieu of making a contribution in accordance with a condition imposed under this Plan.

Any offer shall be made in writing to the Council.

If the offer is made prior to the issue of a development consent then the offer must be made by way of a planning agreement, and the Council will consider the request as part of its assessment of the development application.

The Council will take into account the following matters in deciding whether to accept an offer of works, land or other material public benefit:

- the requirements for dedication of land described in clause 2.18.1 (if the offer includes the dedication of land); and
- the overall benefit of the proposal; and
- the standard and timing of delivery of, and security arrangements applying to, the land or works the subject of the offer are to Council's satisfaction; and
- the conditions applying to the transfer of the asset to the Council are to Council's satisfaction; and
- the provision of the land or works will not unduly prejudice the timing or the manner of the provision of Local Infrastructure included in the works program; and
- whether the works schedule included in this Plan would require amendment; and
- the financial implications for cash flow and the continued implementation of the works schedule included in this Plan (including whether Council would need to make up for any shortfall in contributions by its acceptance of the offer).

The acceptance of any offer is entirely at Council's discretion.

If Council approves the offer then it will require the applicant to enter into a written agreement for the provision of the works in a suitable time period. Agreements shall specify (as a minimum) the works the subject of the offer, the value of those works, the relationship between those works and this Plan, the program for delivering the works.

If the offer is made by way of a draft planning agreement under the EP&A Act, the Council will require the agreement to be entered into and performed via a condition in the development consent. Planning agreements shall address the matters included in the EP&A Act and Regulation.

The value of any land, work-in-kind or material public benefit offered by the applicant may, at Council's discretion, be used to offset monetary contributions applicable to the development under this Plan. Refer to clause 2.18.1 for specific arrangements for dedication of land in exchange for offsetting contributions.

### 2.18.1 Minimum requirements for dedication of land for open space

The Council may accept the following areas for open space purposes:

- Land comprising natural areas or riparian corridors.
- Land that is required to deliver the social infrastructure contained in the Western Corridor contributions plan.
- Land that adds to the diversity of open space settings in the area.
- Land that links existing and / or proposed areas of open space and other community-focused land uses (e.g. shopping centres, libraries, transport nodes, schools, community centres).

Acceptance of such land is subject to the following conditions being met:

- The land can be made accessible to the general public.
- The land must be cleared of all rubbish, boulders and debris.
- The land must have in place ongoing maintenance arrangements that are acceptable to the Council.
- The land is separately subdivided and has a separate certificate of title.
- The land must not display any factors that may significantly limit its usability for open space purposes, such as flooding, contaminated soils, acid sulfate soils, current use of the land, or any other hazards or relevant factor.

Where any of the land is proposed to be dedicated to Council as open space **for the purpose of offsetting the developer's monetary contributions under the contributions plan**, the land must satisfy all of the following additional criteria:

- It must have the capacity to accommodate recreational facilities related to its intended purpose for either passive or active open space and recreation.
- It must be not less than 0.5 hectares in size, have a minimum dimension of 50 metres, and have a slope no greater than 1 in 20.
- It preferably should link existing and / or proposed areas of open space and other community-focused land uses (e.g. shopping centres, libraries, transport nodes, schools, community centres).

- It should have at least 50% frontage to a public road, facilitating visibility in to and from the site.
- It must have maintenance and emergency vehicle access.

It must be provided with connection to water mains and other utility services.

### **2.18.2 Valuation of offers**

The value of works offered as works-in-kind is the Attributable Cost of the works (or a proportion of the Attributable Cost if the offer involves providing only part of a work) indexed in accordance with the provisions of this Plan.

The Attributable Cost of works will be used in the calculation of the value of any offset of monetary contributions required under this Plan.

The value of any other kind of material public benefit will be determined by a process agreed to between the Council and the person making the offer at the time the development application is being prepared.

The value of land will be the Attributable Cost of the land under this Plan indexed to the time the agreement is entered into, in accordance with the indexing provisions of this Plan (refer to clause 2.14).

### **2.18.3 Provision of land, works-in-kind and other material public benefits in excess of contribution requirements**

It is at Council's discretion whether it will accept from a developer the provision of land, works-in-kind or other material public benefits where the value of the land and / or works (which is the Attributable Cost of the land and / or works indexed in accordance with the provisions of this Plan) exceeds the value of development contribution required by conditions of consent.

Where Council does agree to accept land and / or works with a value greater than the contributions required, Council will hold the 'surplus value' of the land / works as a credit in favour of the developer and will apply this credit against future development contribution requirements for that particular type of infrastructure.

For example, if works are provided by a developer that are 'community facility' works identified in this Plan, and those works have an Attributable Cost greater than the community facilities monetary contribution that is required on the developer's development consent, then the difference between the Attributable Cost of the community facility works-in-kind and the monetary contribution (this is called the 'surplus value') will be held as a credit and will only be used to offset section 94 requirements for community facilities imposed on development consents in the Newcastle LGA issued to that developer.

That is, Council would not offset requirements to make contributions for the purposes of, for example, open space and recreation facilities or any other types of facilities required under this Plan or any other contributions plan against this 'surplus value', as the surplus value relates only to the provision of community facilities.

Developers providing land, works-in-kind and other material public benefits that are in excess of their contribution requirements should not expect 'settle-up' monetary payment from Council until all contributions toward the provision of the works identified in this Plan have been received from other developers of land in the Western Corridor and the surplus contributions are available to meet the payment.

### **2.19 Pooling of funds**

For the purposes of section 93E(2) of the EP&A Act, this Plan authorises money obtained from levies paid in respect of different developments to be pooled and applied by the Council progressively towards the Local Infrastructure items listed in Part 3 of this Plan.

### **2.20 Accountability and access to information**

Council is required to comply with a range of financial accountability and public access to information requirements in relation to section 94 contributions. These are addressed in Divisions 5 and 6 of Part 4 of the EP&A Regulation and include:

- maintenance of, and public access to, a contributions register;
- maintenance of, and public access to, accounting records for contributions receipts and expenditure;
- annual financial reporting of contributions; and
- public access to contributions plans and supporting documents.

These records are available for inspection free of charge at Council.

### **2.21 Review of Plan without the need for public exhibition**

Pursuant to clause 32(3) of the EPA Regulation, Council may make certain minor adjustments or amendments to the Plan without prior public exhibition and adoption by Council. Minor adjustments could include minor typographical corrections and amendments to rates resulting from changes in the indexes adopted by this Plan (see clause 2.14).

### **2.22 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.

### 3.0 Summary of Local Infrastructure demand and provision

#### 3.1 Expected development

The Western Corridor has an estimated total development potential of 9,578 dwellings, of which approximately 40 percent was existing in 2011.

Approximately 27 percent of this potential has been developed since 2011 or is subject to a current consent. These developments will meet their local infrastructure needs through contributions paid under pre-existing contributions plans, or through planning agreements negotiated with the Council.

This means that there remains approximately 33 percent of the study area development (or around 3,132 dwellings) that is yet to be approved. The local infrastructure needs of these developments will be met by contributions levied under this Plan. Alternatively, these developments may be the subject of planning agreements negotiated between developers and Council.

Expected future development will mainly be accommodated in two major developments: Coal and Allied and Xstrata. Together, these developments will likely account for around 87 percent of yet-to-be-approved development.

Table 3.3 profiles the expected future development and resultant population growth. The location of the respective anticipated development areas is shown in Figure 2.

These areas of development are the focus of infrastructure identified in this Plan, and are expected to be the main developments that will be subject to the contributions included in this Plan.

**Table 3.1 Expected development in the Western Corridor**

Western Corridor Development Areas	Area No. <sup>1</sup>	Expected dwellings	Estimated population in anticipated development <sup>2</sup>
Coal & Allied Part 3A	6	1,520	4,560
- seniors living component		152	228
505 Minmi Road	7	110	330
Xstrata	8	1,200	3,600
Seniors Living - Elmore Vale	9	150	225
Total		3,132	8,943

Notes:

1. refer map in Figure 2
2. assumed occupancy rate of 1.5 persons per dwelling for self-contained seniors living development and 3 persons per dwelling for all other dwellings



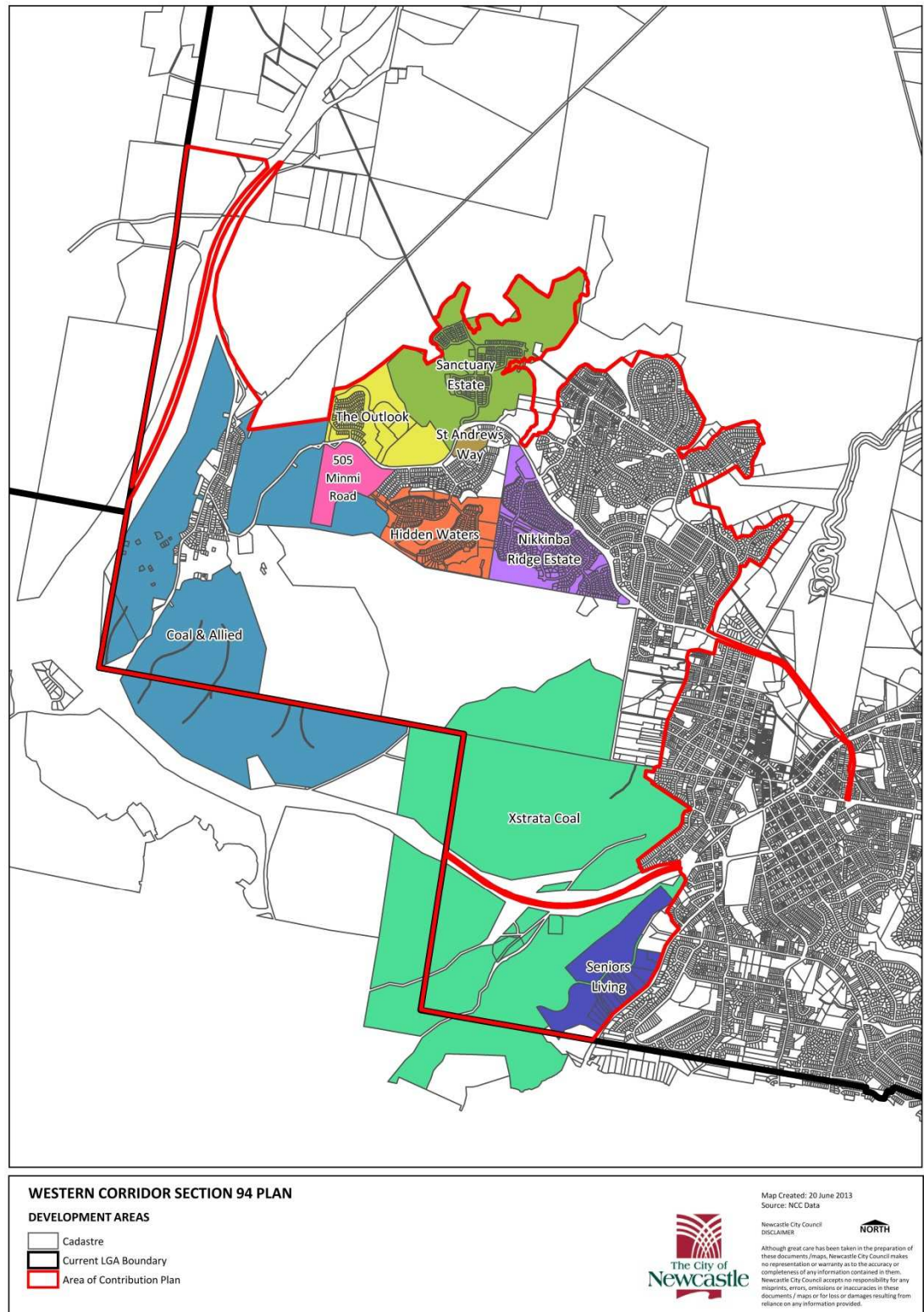


Figure 2 Western Corridor development areas

## 3.2 Local Infrastructure strategies

### 3.2.1 Traffic and transport

#### Summary of requirements

Minmi Road is the key item of transport infrastructure that will be impacted by future development in the study area. Currently, Minmi Road generally operates within capacity, with some links however showing unacceptable LOS in at least one peak hour.

By 2016, Minmi Road will generally experience volumes in excess of capacity. Accordingly the widening of Minmi Road south-east of Maryland Drive (west) to Cameron Street/Cowper Street to two lanes in each direction is considered critical to the successful operation of the road. Also, more than half the studied intersections will likely operate at an unacceptable LOS by this time. The majority of the works required to mitigate these impacts is required by existing developments or developments that have already been approved.

The works recommended to sustain 2016 vehicle flows would, if carried out with certain additional works identified to meet the future development in the study area, likely support the traffic flows anticipated in the study area up to 2031.

Several public transport, walking and cycling works have also been identified as being needed to sustain the future development of the study area.

#### Calculation of a reasonable development contribution

Monetary contributions for traffic and transport infrastructure are calculated on a per peak hour trip basis, then factored up to a per lot or per dwelling amount.

The monetary contribution per peak hour trip in a development containing residential dwellings or lots is calculated as follows:

$$\text{Contribution per resident (\$)} = \frac{\text{\$INF}}{T}$$

Where:

\$INF = the estimated total cost of all the traffic and transport infrastructure required to meet the future development expected under this Plan (i.e. \$2,900,382.00)

T = the estimated total number of peak hour vehicle trips that will be generated by the future development expected under this Plan (i.e. 2,874 trips)<sup>1</sup>

<sup>1</sup> Refer to Table X of the Traffic Study for total peak hour vehicle trips attributable to expected development to 2031



The per dwelling amount is determined by multiplying the per trip contribution by the estimated increase in peak hour vehicle trips as a result of the development, using the following assumed trip generation rates shown below.

The following workings show the calculation of the section 94 contribution rate:

$$\begin{aligned}
 \text{Contribution per vehicle trip (\$)} &= \frac{\$INF}{T} \\
 &= \frac{\$2,900,382.00}{2,874} \\
 &= \$1,009.18
 \end{aligned}$$

Assumed peak hour vehicle trip generation rates:

- Standard lot or dwelling                      0.85 trips per dwelling
- Seniors living dwellings                      0.2 trips per dwelling

Using the above assumptions the following per dwelling contributions are derived:

$$\begin{aligned}
 \text{Contribution per standard lot or dwelling (\$)} &= \$1,009.18 \times 0.85 \\
 &= \$857.80
 \end{aligned}$$

$$\begin{aligned}
 \text{Contribution per seniors living dwelling (\$)} &= \$1,009.18 \times 0.2 \\
 &= \$201.84
 \end{aligned}$$

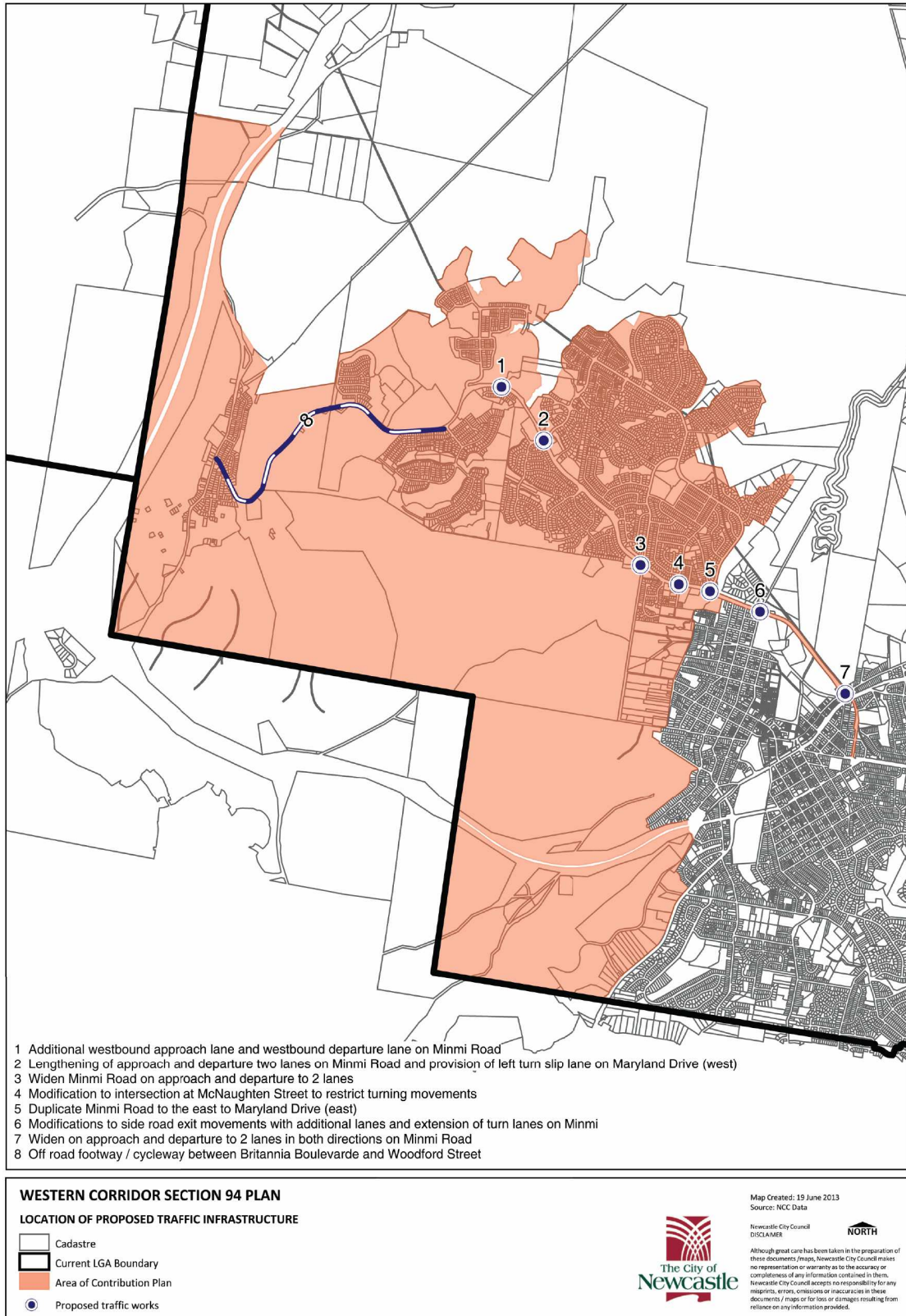
## Works program

The proposed traffic and transport works program, and maps showing the location of the infrastructure, are shown on the following pages.

**Table 3.2 Western Corridor traffic and transport infrastructure schedule**

No.	Item	Description	Estimated cost of works	Estimated staging and priority
	<b>Roads and Intersections</b>			
T1	Minmi Road, Awabakal Drive and Bellbird Close	Additional westbound approach lane and westbound departure lane on Minmi Road	\$378,338	7
T2	Minmi Road, Churnwood Drive and Maryland Drive west	Lengthening of approach and departure two lanes on Minmi Road and provision of left turn slip lane on Maryland Drive (west)	\$509,350	6
T3	Summerhill Waste Management roundabout	Widen Minmi Road on approach and departure to 2 lanes	\$272,475	5
T4	Minmi Road and McNaughton Street	Modification to intersection at McNaughton Street to restrict turning movements	\$244,765	4
T5	Minmi Road and Maryland Drive east	Duplicate Minmi Road to the east to Maryland Drive (east)	\$244,765	3
T6	Minmi Road, Creek Road and Macquarie Street	Modifications to side road exit movements with additional lanes and extension of turn lanes on Minmi Road eastern approach	\$327,394	2
T7	Minmi Road and Sandgate Road	Widen on approach and departure to 2 lanes in both directions on Minmi Road	\$258,645	1
	<i>Sub-Total</i>		\$2,235,732	
	Contingencies allowance (20%)		\$447,150	
	<i>Sub-total including contingencies</i>		\$2,682,882	

No.	Item	Description	Estimated cost of works	Estimated staging and priority
	<b>Pedestrian / Bicycle Facilities</b>			
T8	Off road footway / cycleway between Britannia Boulevard and Woodford Street		\$137,500	8
	<i>Sub-Total</i>		<i>\$137,500</i>	
	<b>Public Transport Facilities</b>			
T9	New Bus Shelters x 4		\$80,000	9
	<i>Sub-Total</i>		<i>\$80,000</i>	
	<b>TOTAL</b>		<b>\$2,900,382</b>	



### 3.2.2 Social infrastructure

#### Summary of requirements

Social infrastructure includes the community facilities, services and networks which help individuals, facilities, groups and communities meet their social needs, maximise their potential for development and enhance community wellbeing.

Currently, there is some 113 hectares of open space available in the study area, about 33 hectares of which is considered by Council to be 'usable' open space. The Blue Gum Hills Regional Park is an additional facility that is a major recreation resource. Further local recreation facilities are being provided as part of the Sanctuary Estate development. The study area also three existing centres that comprise community facilities floor space.

The social infrastructure within and immediately surrounding the study area are generally adequate only to service the existing population. Given the estimated projected population growth in the study area, the current facilities will not remain adequate.

A range of planning benchmarks were examined to develop an indication of the social infrastructure needs and demands attributable to future development in the study area, including State Government guidelines, Council's community assets policy, CP4 and other comparable contributions plans, the current rates of provision in the study area, and the facilities proposed as part of future developments (such as Coal and Allied).

A set of facility planning principles were prepared to inform the social infrastructure requirements. These principles focus on providing an equitable distribution of baseline and robust facilities in partnership with others, including the developers who will largely be responsible for creating the new communities in the study area.

A set of requirements and a schedule for the following facilities was prepared. These facilities will be the subject of development contribution requirements imposed under the contributions plan, or of voluntary planning agreements negotiated with developers of land in the study area:

- Passive (developed) open space
- Sportsfields (local and district)
- Outdoor Courts
- Playgrounds
- Skate facilities
- Multi-purpose Community Facilities / Neighbourhood Centres

#### Calculation of a reasonable development contribution

Monetary contributions for social infrastructure are calculated on a per person or per resident basis, then factored up to a per lot or per dwelling amount.

The monetary contribution per person in a development containing residential dwellings or lots is calculated as follows:

$$\text{Contribution per resident (\$)} = \frac{\$INF}{P}$$

Where:

\$INF = the estimated total cost of all the social infrastructure required to meet the future population in development expected under this Plan (i.e. \$34,297,350)

P = the estimated resident population that will require the social infrastructure included in this Plan (i.e. 8,943 persons)

The per dwelling amount is determined by multiplying the per person contribution by the estimated increase in population as a result of the development, using the assumed dwelling occupancy rates listed in Table 2.1 of this Plan.

The following workings show the calculation of the section 94 contribution rate:

$$\begin{aligned} \text{Contribution per resident (\$)} &= \frac{\$INF}{P} \\ &= \frac{\$34,297,350}{8,943} \\ &= \$3,835.11 \\ \text{Contribution per standard lot or dwelling (\$)} &= \$3,835.11 \times 3.0 \\ &= \$11,505.32 \\ \text{Contribution per seniors living dwelling (\$)} &= \$3,835.11 \times 1.5 \\ &= \$5,752.66 \end{aligned}$$

### Works program

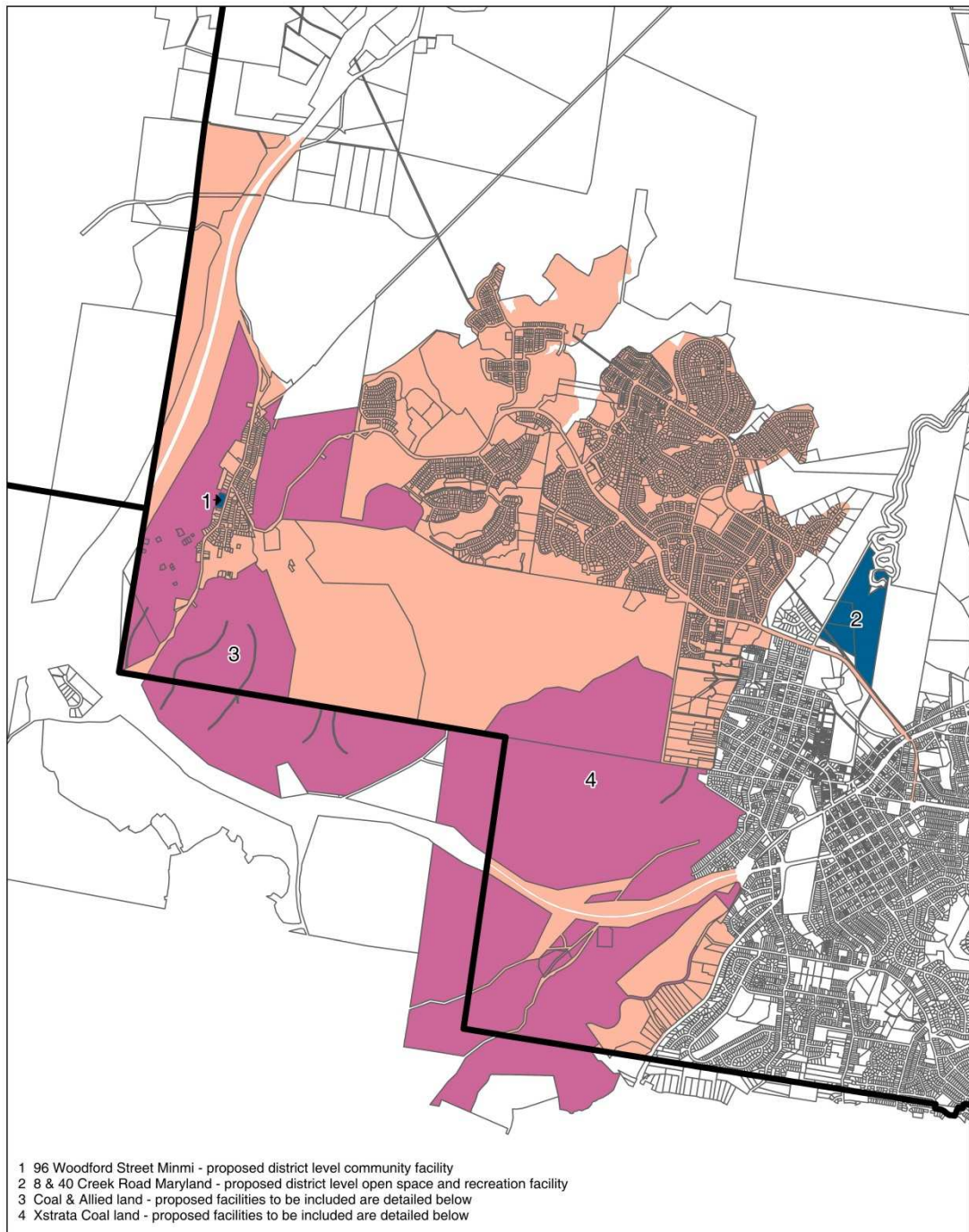
The proposed social infrastructure works program, and maps showing the location of the infrastructure, are shown on the following pages.

**Table 3.3 Western Corridor social infrastructure schedule**

Item No.	Item	Description	Land area	Estimated cost of land	Estimated cost of works	Project on costs and contingency allowance	Estimated total cost / apportioned cost of item	Estimated staging and priority
	<b>Open Space and Recreation</b>							
S1	Developed, passive open space	Minimum of 0.5ha /1,000 people for new development areas = 4.5ha	45,000	\$562,500	\$2,250,000	\$337,500	\$3,150,000	As and when surrounding development proceeds
		Half roads based on 9 parks each of 5000m <sup>2</sup> , with half the total parks frontage having a facing road	10,080	\$126,000	\$1,197,000	\$179,550	\$1,502,550	As and when surrounding development proceeds
S2	Local sportsfields	Minimum of 7 local fields; double fields facilities each min. 5ha	175,000	\$2,187,500	\$11,158,000	\$1,673,700	\$15,019,200	As and when surrounding development proceeds
		Half roads based on half the park area frontage of 5ha having a facing road	11,872	\$148,400	\$2,819,600	\$422,940	\$3,390,940	As and when surrounding development proceeds
S3	District sportsfields	Apportioned cost of providing 2 fields at the proposed Creek Road facility	247,600	\$508,600	\$10,627,121	\$1,594,068	\$3,637,083	To be determined
S4	Outdoor courts	Minimum of 8 sealed courts: 3 x Netball 2 x Basketball 3 x Local Tennis		included in local sports fields	520,000.00	78,000.00	598,000.00	As and when surrounding development proceeds
S5	Cricket nets	Minimum of 3 nets		included in	\$60,000	\$9,000	\$69,000	As and when

Item No.	Item	Description	Land area	Estimated cost of land	Estimated cost of works	Project on costs and contingency allowance	Estimated total cost / apportioned cost of item	Estimated staging and priority
				local sportsfields				surrounding development proceeds
S6	Playgrounds	Minimum of 6 playgrounds		Included in passive open space	750,000.00	112,500.00	862,500.00	As and when surrounding development proceeds
S7	Skate/BMX facility	One (1) local facility to be provided in a location TBD			\$600,000	\$90,000	\$690,000	To be determined
	<i>Sub total</i>						\$28,919,273	
	<b>Community facilities</b>							
S8	Local and district multi-purpose community facility	Construction of floor space - land required for second centre only	3,000	\$37,500	\$4,643,980	\$696,597	\$5,378,077	Minmi village facility to be provided first; timing to be determined
		Construction of parking area (say 60-80 spaces)			\$217,403	\$32,610	\$250,013	
	<i>Sub total</i>						\$5,378,077	
	TOTAL						\$34,297,350	





#### WESTERN CORRIDOR SECTION 94 PLAN

##### LOCATION OF PROPOSED TRAFFIC INFRASTRUCTURE

- Cadastral
- Current LGA Boundary
- Area of Contribution Plan
- Proposed social infrastructure

- Developed passive open space - 4.5ha
- Local sports fields - 7 double fields facility min 5ha
- Outdoor sealed courts - min 9
- Cricket nets - min 3 nets
- Playgrounds - min 9
- Skate facility



Map Created: 1 August 2013  
 Source: NCC Data

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