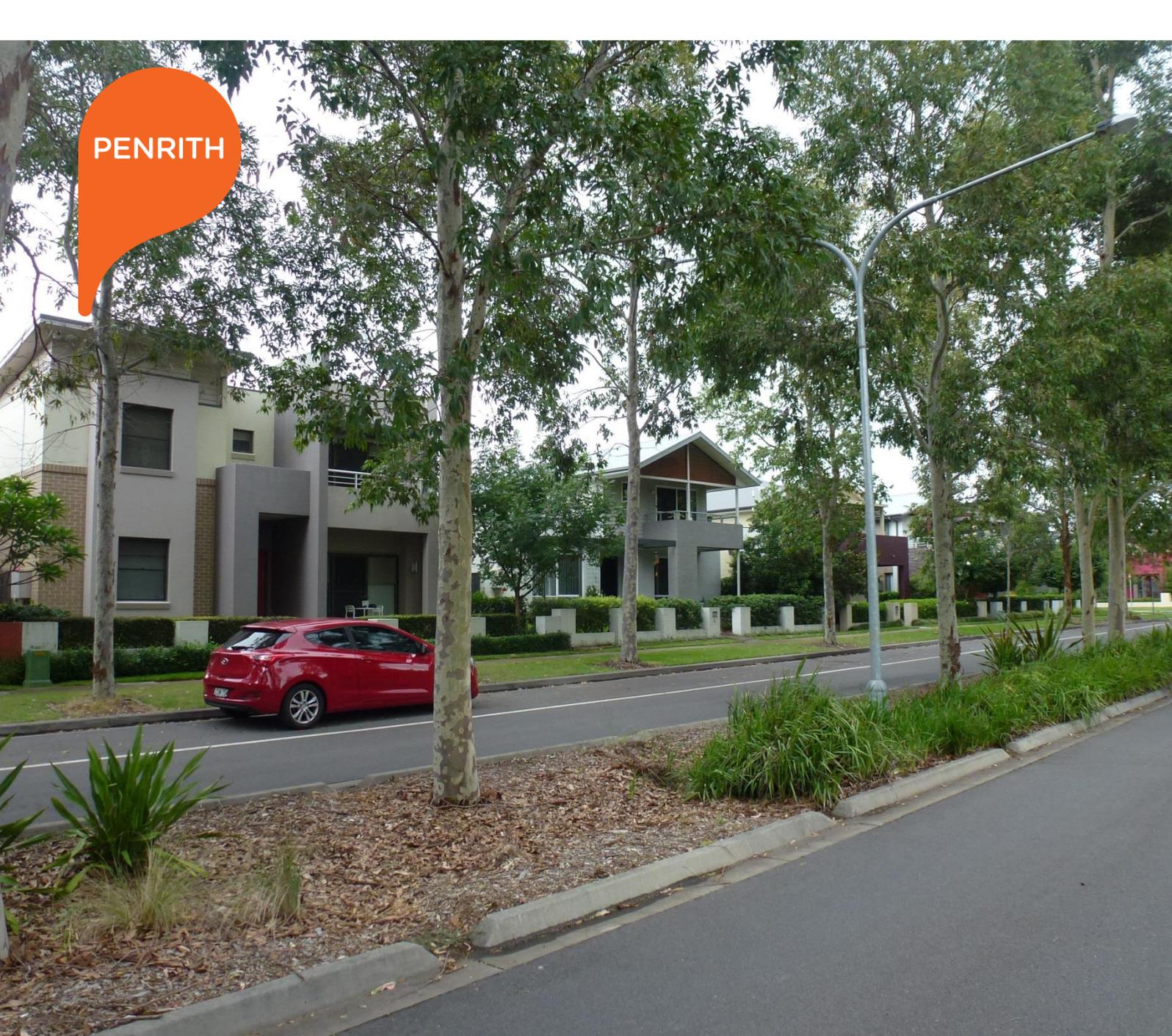




PENRITH



# LAKES ENVIRONS (WATERSIDE GREEN)

## Section 94 Development Contributions Plan

Adopted by Council on 7<sup>th</sup> March 2005  
Effective from on 15<sup>th</sup> March 2005

**PENRITH**  
CITY COUNCIL

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# 1. INTRODUCTION

## 1.1 WHAT IS SECTION 94?

Section 94 of the Environmental Planning and Assessment Act 1979, enables councils to levy contributions from developers for the provision of public amenities and services which are required as a consequence of development.

The Land and Environment Court has determined that Section 94 is the sole mechanism that a council can use to levy contributions from a developer.

The application of Section 94 follows three general principles:

- (i) The contribution must be for, or relate to, a planning purpose;
- (ii) The contribution must fairly and reasonably relate to the subject development; and
- (iii) The contribution must be such as a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

Under Section 94(1) a council is able to impose a condition on any development consent requiring a contribution to:

- (i) Provide works or facilities to be carried out in the future; or
- (ii) Fund works or facilities from which the development or its occupants will benefit.

## 1.2 TYPES OF CONTRIBUTION

Section 94 makes provision for three (3) methods of payment of contribution:

- (i) Dedication of land to Council free of cost;
- (ii) Monetary contribution; and
- (iii) Works in kind (Material Public Benefit – physical components not being land, which are of benefit to the general community).

## 1.3 PURPOSE OF THIS PLAN

This Plan sets down Council's policy for raising, holding and expending Section 94 contributions within Waterside Green.

Contributions within Waterside Green are levied on a per developed hectare basis for drainage/water quality facilities, community facilities and road and traffic management facilities.

A levy for plan administration is also charged, based on a proportion of the total contribution payable. It is anticipated that it may be appropriate to borrow money to fund the works in advance of contributions being received. If money is borrowed, the contributions will need to fund the interest costs.

All contributions will be adjusted quarterly in accordance with the appropriate indexes, and trends in the costs of components. Details of the current rates as adopted may be obtained from Council. Contribution rates and their underlying basis will be regularly reviewed.

A formula has been developed for each item in order to calculate the contribution rate within the contribution plan area. The formula takes into account the following:

- Cost of works; and
- Size of the developable area.

## **1.4 FINANCIAL INFORMATION**

Council maintains a contributions register in accordance with clause 34 of the Environmental Planning and Assessment Regulation 2000.

A separate accounting record is maintained by Council's Financial Services Department for this Plan. It contains details of contributions received and expended, including interest earned, for each contribution category. These records are available for inspection free of charge at Council.

## **1.5 PLAN REVIEW**

The plan will be reviewed and updated periodically based on development rates and levels of facility provision. Any infrastructure works that have been constructed by Council at the date of review will be carried forward in the adjusted works schedule at their actual cost plus any accrued interest payments on borrowed funds used to construct the works. The revised plan will be advertised and considered in accordance with the legislation and regulations.

## 2. GENERAL

### 2.1 AIMS AND OBJECTIVES

The aims and objectives of this plan are:

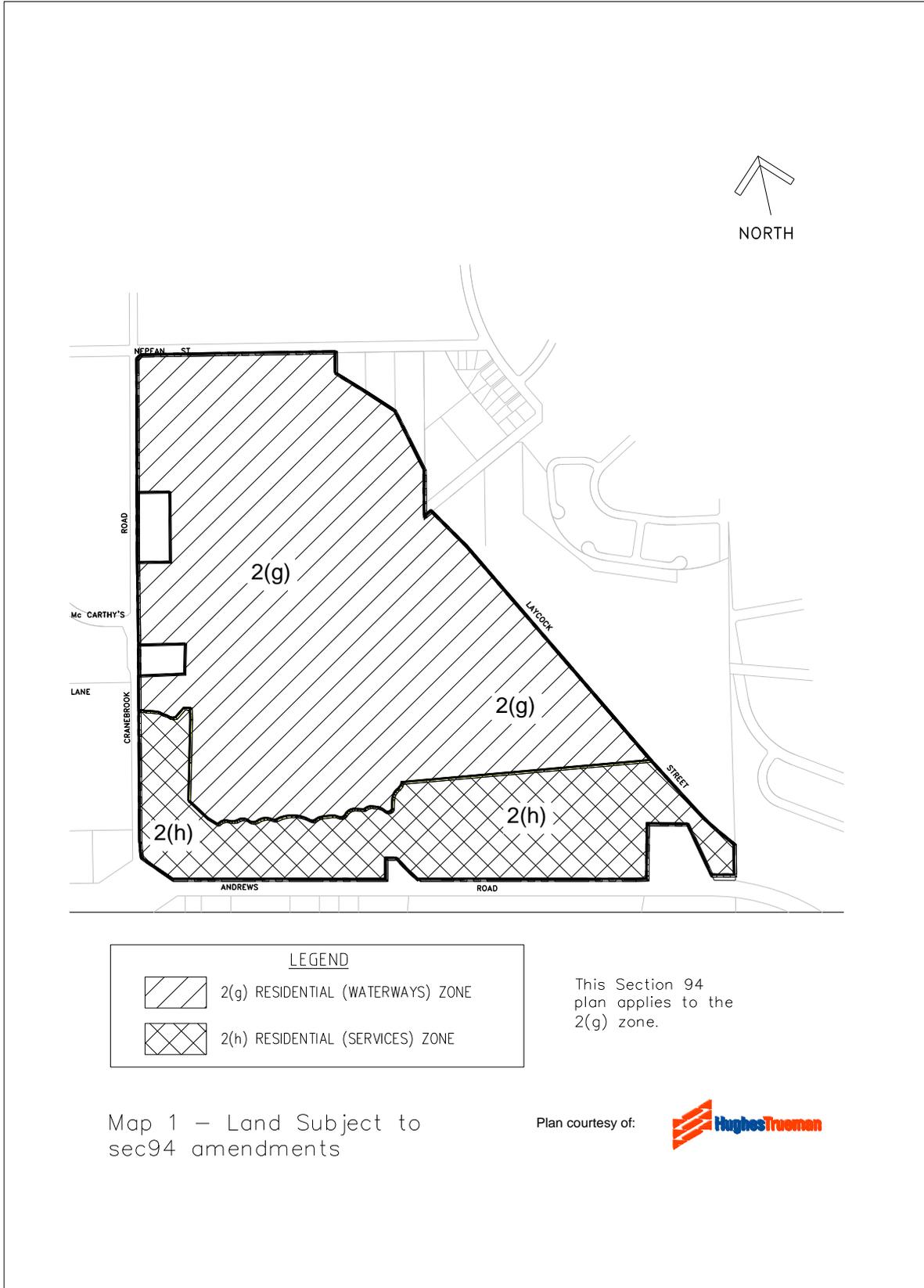
- (a) To levy Section 94 contributions within Waterside Green for the purposes of roads and traffic management facilities, open space, community facilities and administration;
- (b) To protect and preserve native vegetation and biodiversity;
- (c) To ensure that the contributions levied on development are reasonable;
- (d) To ensure that the level of provision of facilities and services is adequate to satisfy the demand generated by the future development and population of Waterside Green;
- (e) To establish the costs of providing the services and facilities required to satisfy the demand generated by the future development of Waterside Green;
- (f) To outline the method of calculating the contributions applicable to development within Waterside Green;
- (g) To ensure the equitable recovery of the costs of major capital works necessary for development to occur;
- (h) To ensure the equitable distribution of costs associated with works installed in the course of or after development; and
- (i) To make clear Council's intentions regarding the type, location and timing of provision of services and facilities in the Waterside Green development.

### 2.2 LAND AFFECTED BY THE PLAN

This Plan applies to the land as shown on Map 1. The land affected by the Plan is generally bounded by Cranebrook Road to the west, vacant land zoned 2(h) to the south, Laycock Street to the east, and Nepean Street to the north.

### 2.3 DEVELOPABLE AREA

Developable area for the purposes of determining contribution rates in this plan means the total site area of any particular site. Waterside Green, an innovative, lake-based residential development of 53.3 hectares, is expected to generate 694 residential dwellings.



## 2.4 RELATIONSHIP TO OTHER PLANS

The land is affected by Penrith Local Environmental Plan 1998 (Lakes Environs) as amended and Penrith Development Control Plan 1998 (Lakes Environs) as amended 2004. These plans provide the statutory framework for subdivision and development of the land.

Should a contribution be required under another Section 94 plan, then Council will have regard to the objectives of that plan in determining what contributions will be applicable.

To the extent that it is not inconsistent, this plan operates in addition to other section 94 contributions plans.

## 2.5 NEXUS

This plan adopts as its basic rationale the following principles in establishing a nexus between a proposed development and the service or facility:

- Provision of a service and/or facility via a Section 94 contribution is a measurable consequence of the proposed development.
- The service and/or facility can be physically provided within a reasonable time interval.

A *nexus* is the relationship between the expected types of development in the area and the demand for additional public amenities and services to meet that demand. Before levying developers for contributions, Council must establish a clear link or nexus between the contribution being sought and the development being levied. That is, it must be likely that the residents of the development being charged will benefit from the service or facility being provided.

There are three type of nexus – causal, physical and temporal. Causal nexus establishes that the need for a service or facility is a direct result of the development being levied. Physical nexus means that the facility to be provided is physically close enough to the development being levied for it to benefit. Temporal nexus involves the facility being provided within a reasonable time.

This Plan also recognises that the new development and population growth is impacting upon the habitat of native fauna and flora (particularly remnant Cumberland Plain Woodland) and recognises the need to acquire and protect an area of remnant bushland that is also capable of providing low scale or passive recreation opportunities. The cost of purchase and embellishment of this area is directly attributable to new development in the area.

## 2.5.1 DEVELOPMENT OF THE LAND

The land now known as Waterside Green was released for residential development in 1998 following the making of Penrith LEP 1998. That Plan has since been amended (2004) and allows for residential subdivision on 53.3 hectares of land. Supporting the LEP are a masterplan and Penrith DCP 1998 (as amended) which identify the facilities necessary for the development of the land and the incoming residential community.

A substantial proportion of the site, some 20.2 hectares (38%) is set aside for an extensive wetland and open space system. Specifically, the proposed Waterside Green development will comprise the following:

- 694 dwellings in a mix of residential forms including:
  - detached dwellings (32%)
  - courtyard and terrace houses (27%), and
  - town houses and apartments (41%).
- Open space areas (approximately 10.7 hectares)
- A lake system performing stormwater and water quality management functions (approximately 8.6 hectares)
- Community facilities
- New roads including shareways/accessways
- Drainage and water quality management facilities.

The majority of infrastructure and facilities are to be provided by the developer and are outside the scope of this Section 94 Plan. Waterside Green is to be a community title estate. Accordingly, most facilities, services and infrastructure will be owned and maintained by the Community Association. The exceptions are road and public open space which are to be dedicated to Council.

## 2.5.2 EXPECTED COMMUNITY

At full occupation the resident population of Waterside Green is expected to be in the order of 2150 people with an average of 3 persons per dwelling. Estimated average occupancy rates are likely to be as follows:

Resident category	Number of lots	Average persons per dwelling	Estimated number of residents
Older full nest couples	416	4	1660
Empty nesters and retirees	139	1.5	210
Double income no kids	139	2	280
<b>Total</b>	<b>694</b>	<b>3</b>	<b>2150</b>

An average of 3 people per dwelling is consistent with the profile for Penrith as a whole (Randolph B and Holloway D, Urban Growth in Penrith – A Research Report, December 2003). However, based on the proposed dwelling mix, Waterside Green is expected to have a larger proportion of couples with children (60%) than the Penrith LGA as a whole (44%) (*op.,cit*).

An 'Assessment of Community and Recreation Facility Requirements of Waterside Green' was prepared by Heather Nesbitt Planning (May 2004). The assessment provides the following indicative age profile of the Waterside Green population at full development based on a number of assumptions detailed in the report and the demographic profile of the Penrith LGA as a whole and a similar community at Glenmore Park (p3).

Age Group	Projected age profile	
	%	Number
0-4 years	8	172
5-9 years	9	194
10-14 years	10	215
15-19 years	9	194
20-24 years	7	150
25-29 years	9	194
30-54 years	38	817
55-64 years	6	129
65 years and over	4	86
<b>TOTAL</b>	<b>100</b>	<b>2150</b>

The above occupancy rates and age profile are used in this Section 94 Plan as the basis for establishing the need for facilities and infrastructure.

## 3. ROADS AND TRAFFIC MANAGEMENT

### 3.1 EXTENSION OF LAYCOCK STREET AND INTERSECTION WITH ANDREWS ROAD

The concept layouts and the philosophy behind Laycock Street are contained in the Penrith DCP 1998 Lakes Environs (as amended). The extension of Laycock Street from its current termination in Mt Pleasant to the intersection with Andrews Road will both provide the development with an access point on Andrews Road and compensate for the closure of Nepean Street which currently forms an access to Mt Pleasant from the south west. The Laycock Street extension is to be located partly within Greygums Reserve. A plan of management is to be prepared to establish guidelines for the location of the road and the use, development and management of the reserve. In addition, Laycock Street and its intersection with Andrews Road are designed to provide flood free access in the event of a major rain event and is the key point of evacuation for residents from Waterside Green. The facilities are as follows:

- Extension of Laycock Street up to Andrews road intersection
- Intersection of Andrews Road and Laycock Street
- Preparation of Plan of Management for Greygums Reserve

The entire cost of the Laycock Street extension, the Laycock Street / Andrews Road intersection and the preparation of the Plan of Management are listed in the Schedule of Works and are fully costed to the Section 94 Plan.

### 3.2 TMAP FACILITIES

Development of Waterside Green has generated the need for both on and off-site traffic facilities and infrastructure to manage and facilitate pedestrian and cyclist access. The developer is providing all the on-site facilities, while cycleways on Cranebrook and Andrews Roads will be provided as part of regional road works. The off-site facilities are described in the Transport Management and Access Plan (TMAP) for Waterside Green prepared by Massey Wilson Twiney (July 2004). They are as follows:

- Pedestrian/cyclist crossing on Cranebrook Road, at intersection with Road 1 (median island)
- Pedestrian/cyclist crossing on Cranebrook Road, at intersection with Nepean Street (median island)
- Pedestrian/cyclist crossing on Andrews Road, at intersection with Laycock Street (median island)
- Direct pedestrian/cycle interface between residential and commercial zones located on Andrews Road.

The above off-site facilities are listed in the Schedule of Works and are fully costed to the Section 94 Plan.

### 3.3 CALCULATION OF CONTRIBUTIONS

The contributions rates are set out in Section 9. Those contributions rates relate to a rate per hectare of land to be developed. The contribution payable shall be calculated as follows:

The Contribution = area of land in hectares X the contribution rate found in Section 9

<b>Schedule of Works</b>	<b>Calculation</b>
Preparation of Plan of Management for Greygums Reserve	\$15,000
Extension of Laycock Street up to intersection with Andrews Road	\$2,460,000
Intersection of Andrews Road and Laycock Street	\$450,000
TMAP facilities	\$45,000
<b>Total</b>	<b>\$2,970,000</b>
<b>Contribution for Roads and Traffic Management Works (per hectare)</b>	<b>\$55,723</b>

Note 1. Costs include construction, drainage and landscaping, as well as design, documentation, contract administration and supervision charged at a rate of 12.5% of the cost of works.

Note 2. The contribution rate has been calculated by dividing the total cost of the schedule of works by the developable area.

### 3.4 WORKS PROGRAM

<b>Threshold</b>	<b>Works</b>
Prior to the closure of Nepean Street or when required as a flood evacuation route	Extension of Laycock Street and Andrews Road Intersection
In association with the construction of the respective external road intersections	TMAP facilities

## 4. OPEN SPACE

All communities require some form of open space for active and passive recreation. These range from local parks within walking distance of residences to local playing fields and major recreational facilities such as Penrith Lakes and Panthers Stadium.

Contributions for two facilities form part of this Section 94 Plan:

- The embellishment of an existing playing field; and
- Land and revegetation of an area of Cumberland Plain Woodland.

### 4.1 ACTIVE RECREATION FACILITIES

The 'Assessment of Community and Recreation Facility Requirements of Waterside Green' prepared by Heather Nesbitt Planning (May 2004) concluded the following in relation to the provision of active open space:

- Waterside Green will house an estimated 775 school aged children and youth who are expected to have a significant need for active open space and recreation facilities.
- Standard indicators suggest that 1.2 hectares of active open space is required per 1000 residents or one playing field per 2000-3000 people.
- The adjoining suburb Cranebrook has a current provision of one playing field per 1,782 residents while Council's Draft PLANS Study Strategy Report considers that current quantity of playing field provision in the established suburbs is adequate.
- The proposed development is adjacent to the existing sports grounds and playing fields at Grey Gums Reserve. Several other sports grounds are located in the suburb of Cranebrook. Some have existing facilities (ie, oval, amenities block etc) while others are not embellished (eg, reserve at the corner of Boundary and Enterprise Road).
- Best practice recommends 'quality rather than quantity' and increasing the capacity of existing sports grounds. This reflects the high cost of land acquisition and maintenance. For example, the capacity of existing reserves can be increased to cater for new demands by embellishments such as lighting, watering systems, improved playing surfaces (eg, topsoil and returfing), additional full and half size fields for other sports etc.

Waterside Green will generate the need for one playing field based on the standard indicators set out in the needs assessment.

Consistent with the best practice trends for increased efficiency and reduced maintenance of sporting facilities and the availability of significant playing field resources in the Cranebrook area, it is considered reasonable that Section 94 funds be directed towards upgrading and increasing the capacity of existing fields to meet the needs of Waterside Green residents. Accordingly, this Plan provides for embellishment works in Cranebrook park equal to the cost of one full size playing

field and one mid size field (excluding land costs). The works include the following facilities:

- Amenities (toilets, change rooms, storage, kiosk)
- Field development
- Car parking for 30 vehicles
- Lighting
- Relocation of cricket nets and pitch

The cost of the embellishment is listed in the Schedule of Works and is fully costed to the Section 94 Plan.

## 4.2 PASSIVE RECREATION FACILITIES

The development proposes an extensive, landscaped open space network of 9.2 hectares around the lake system that will provide opportunity for passive recreation. This area provides nearly 4.3 hectares of open space per 1000 population. The land is to be landscaped in accordance with the Waterside Green Landscape Master Plan and Penrith DCP 1998 Lakes Environs (as amended).

The 'Assessment of Community and Recreation Facility Requirements of Waterside Green' prepared by Heather Nesbitt Planning (May 2004) recommended the provision of community and recreation infrastructure specifically targeted at informal recreation facilities for youth and non-facility based approaches to increasing community interaction. Informal recreation facilities could include, rebound wall, half basketball and netball court, playground equipment and tennis courts. The developer has indicated an intention to provide these types of facilities adjacent to the proposed Community Facilities building and in 'pocket parks' located throughout the development. The establishment of these elements will occur as part of the design and development process.

In addition, 1.5 hectares of Cumberland Plain Woodland, indicated as 'Area A' in Penrith Development Control Plan 1998 Lakes Environs (as amended), has been set aside for environmental protection and low scale passive recreation opportunities.

These facilities will provide residents of the development with a variety of open space, preserve habitat opportunities and ensure that the level of open space provided for the development is adequate for the needs of future residents.

'Area A' is to be rehabilitated in accordance with the Vegetation Management & Riparian Restoration Plan prepared by Conacher Travers (April and October 2004). The entire cost of rehabilitation is listed in the Schedule of Works and is fully costed to the Section 94 Plan.

## 4.3 CALCULATION OF CONTRIBUTIONS

The contributions rates are set out in Section 9. Those contributions rates relate to a rate per hectare of land to be developed. The contribution payable shall be calculated as follows:

The Contribution = area of land in hectares X the contribution rate found in Section 9

<b>Schedule of Works</b>	<b>Calculation</b>
Embellishment of Cranebrook Park	\$578,000
1.5075 ha Cumberland Plain Woodland, indicated as 'Area A' in Penrith DCP 1998 Lakes Environs (as amended)	\$1,507,500
Preparation and implementation of rehabilitation plan for 'Area A'	\$280,000
<b>Total</b>	<b>\$2,365,500</b>
<b>Contribution for Open Space (per hectare)</b>	<b>\$44,381</b>

Note 1. Costs include construction, drainage and landscaping, as well as design, documentation, contract administration and supervision charged at a rate of 15% of the cost of works.

Note 2. The contribution rate has been calculated by dividing the total cost of the schedule of works by the developable area.

#### 4.4 WORKS PROGRAM

<b>Threshold</b>	<b>Works</b>
Upon issue of development approval for 75% of the total number of proposed dwellings	Embellishment of playing field
Upon completion of development	Acquisition of 'Area A'
Upon completion of development	Rehabilitation of 'Area A'

## 5. COMMUNITY FACILITIES

Community facilities provide focus points where residents can meet and participate in a variety of activities. They can cater for a diverse range of ages and interests and help reduce the likelihood of social problems caused by isolation.

### 5.1 COMMUNITY FACILITY

The ‘Assessment of Community and Recreation Facility Requirements of Waterside Green’ prepared by Heather Nesbitt Planning (May 2004) concluded that the provision of a multi purpose community facility will assist in facilitating community interaction and the development of social networks between new residents. This type of facility would be suitable for functions, community meetings and fee-for-service hire providing activities for residents.

The community facility will be specifically designed at a later stage. As a guide, it will incorporate the following:-

<b>Function</b>	<b>Size</b>
Hall for 80 people with room divider to make 2 activity rooms	100m <sup>2</sup>
Chair/Equipment Storage	20m <sup>2</sup>
Kitchenette	10m <sup>2</sup>
Toilets (male, female & disabled with baby change tables)	20m <sup>2</sup>
Circulation space @20%	30m <sup>2</sup>
Outdoor fenced & shaded play area	
Car parking	20 spaces

The facility will be accessible under AS 1428.

## 5.2 CALCULATION OF CONTRIBUTIONS

The contributions rates are set out in Section 9. Those contributions rates relate to a rate per hectare of land to be developed. The contribution payable shall be calculated as follows:

The Contribution = area of land in hectares X the contribution rate found in Section 9

<b>Schedule of Works</b>	<b>Calculation</b>
180 m <sup>2</sup> building	\$198,000 (\$1,100 per m <sup>2</sup> )
Landscaping	\$95,000
Carpark	\$50,000 (\$2,500 per space)
Siteworks	\$20,000
Internal fit out	\$25,000
Design, documentation, supervision	\$68,288 (16% of construction cost)
<b>TOTAL</b>	<b>\$456,288</b>
<b>Contribution for Community Facilities (per hectare)</b>	<b>\$8,561</b>

Note 1. Costs include construction, drainage and landscaping, as well as design, documentation, contract administration and supervision charged at a rate of 12.5% of the cost of works.

Note 2. The contribution rate has been calculated by dividing the total cost of the schedule of works by the developable area.

## 5.3 WORKS PROGRAM

<b>Threshold</b>	<b>Works</b>
Upon issue of development approval for 75% of the total number of proposed dwellings	Construction of Community Facility

## 6. CONTRIBUTION RATES CALCULATIONS

### 6.1 SETTING AND INDEXATION OF CONTRIBUTION RATES

In order to provide sufficient funding to cover price rises between writing the plan and paying for the items to be delivered by the plan, it is necessary to index the amounts that will be contributed. Indexing applies from date of adoption until issue of consent (per 6.1). Clause 8.10 provides for the indexation of contributions after the issue of development consent.

The Section 94 contribution rates will be indexed based on:

- (i) the Consumer Price Index (All Groups Sydney) or equivalent index system or a projection thereof, and
- (ii) the appropriate interest rate for that portion of the plan that is loan funded, and
- (iii) the land value index for that proportion of the plan that relates to land acquisition or equivalent index system or a projection thereof.

The indexation will be in accordance with this plan and the rates will be published in Council's Annual Management Plan in July each year listing the rates for the next 12-month period. The formulas automatically adjust in the first quarter of each management plan for any prior estimation errors. The method of establishing the contribution rate to be published in the Management Plan shall be to estimate the result that would be achieved by applying the following formulas on a quarterly basis.

In addition, Council may review the whole Contributions Plan, and subject to the regulations could adopt new contributions rates.

There will also be periodic review of the plan and the construction costs of all items. At the time of these reviews the revised contribution rate will not apply to developments that have already been approved or completed.

### 6.2 GENERAL CONTRIBUTION RATES

Except for those contribution rates which are required by section 6.3 and 6.4 to be adjusted by the methods specified in those sections, all contribution rates found in section 9 will be adjusted pursuant to clause 32(3)(b) of the Environmental Planning and Assessment Regulation 2000 as follows:

$$RC = AC \times CPI/ACPI$$

Where:

**RC** is the amended contribution rate

**AC** is the contribution rate as at the date of adoption of this plan

**CPI** is the latest Consumer Price Index (All Groups Sydney)

**ACPI** is the Consumer Price Index (All Groups Sydney), which applied at the date of adoption of the plan

### 6.3 CONTRIBUTION RATE LOAN FUNDED

Where loan funds have been applied in the provision of works and services or land have been provided, the contribution rates in respect of the works, services or land will be reviewed pursuant to clause 32(3)(b) of the Environmental Planning and Assessment Regulation 2000 in accordance with the following formula from the date the loan funds are drawn down and every quarter thereafter:

$$RC = PC \times (1+r)$$

Where:

**RC** is the amended contribution rate

**PC** is the contribution rate at the previous quarter

**r** is the interest rate applicable on the last day of the quarter of the 90-day bank bill swap rate plus 1% rate and then converting the annual rate to a quarterly rate by dividing by 4

### 6.4 INDEXATION OF CONTRIBUTION RATE FOR LAND ACQUISITION

The contribution rate for land acquisition (as found in 4) will be amended, pursuant to clause 32(3)(b) of the Environmental Planning and Assessment Regulation 2000, in line with movements in the Index.

The amended contribution rate will be:

$$RC = AC \times CV/VA$$

Where:

**RC** is the amended contribution rate for land acquisition

**AC** is the contribution rate for land acquisition as at the date of adoption of this plan

**CV** is the Index current from time to time

**VA** is the Index at the date of adoption of this plan

For the purposes of this clause 6.4 'Index' means the index for established home prices: Sydney as published by the Australian Bureau of Statistics.

### 6.5 AMENDED CONTRIBUTION RATES

The amended contribution rates shall replace the contribution rates as found in Section 9.

## 7. ADMINISTRATION LEVY

To monitor, review and implement the Section 94 Contributions Plan, Council must dedicate staff and resources to the task. This has resulted in the inclusion of an administrative component equivalent to 1% of

- (i) the total works and facilities or land to be provided divided by the total developable area; and
- (ii) the total amenities to be provided for each lot.

### 7.1 DEVELOPABLE AREA

Contributions are based on the total cost of works and facilities or land divided by the total developable area. The administration levy is determined using the following formula:

$$\text{\$/DA} \times 0.01 = \text{\$A}$$

Where:

**\\$D** is the total cost of works and facilities or land

**DA** is the total developable area

**\\$A** is the contribution payable for administration

## 8. PAYMENT METHODS AND TIMING

### 8.1 DEVELOPMENT CONSENT

Council will collect contributions (in cash, land or material public benefit) for all leviable land where development occurs which gives rise to the need for facilities or works to be funded from this plan. Council will normally levy the contribution at the first opportunity to do so, but its right to collect is not extinguished if by error, non-payment, or any other reason, the contribution is not received at this time. Council will impose as a condition of consent, a requirement for the payment of a Section 94 contribution in respect of an application for development on the subject land.

Payment of the contributions will be required prior to the release of the linen plan for subdivision developments or at lodgement of a construction certificate for other forms of development.

### 8.2 PAYMENT METHOD

Payment may be made by any means acceptable to Council provided that if the payment is not cash or bank cheque then:

- Any costs or commission payable by Council on the transaction or its collection must also be paid; and

- The payment shall not be deemed to be received until Council's bankers acknowledge that the funds are cleared.

### **8.3 WORKS IN KIND**

Council may accept the construction of amenities or services to offset the monetary contribution payable.

The works provided must be in accordance with the Schedules of Works embodied in this Plan. The application will be required to provide full details of the work proposed to be undertaken for Council's consideration.

### **8.4 CONDITIONS OF AGREEMENT**

Documentation necessary for the verification of proposed credits will also be outlined in the consent and a reasonable time frame will be established in order to prevent any delay.

In addition, conditions of transfer, including restoration and maintenance arrangements, will be set out in the consent.

If a detailed design for works in kind has not been completed at the time of consent, which does not require amendment, the value and contributions will be outlined in the consent notice. The arrangements for this are discussed below.

### **8.5 VALUATION OF WORKS IN KIND**

At the time of detailed design and documentation a cost estimate will be established. If this varies from the adopted Section 94 budget, steps will be taken to rectify the variation. Land which has not been redeveloped which benefits from the works in kind will be affected by any increase and will similarly be affected by any decrease.

Once an agreement has been reached between Council and the developer about the revised cost, the developer may undertake the works. The developer will remain liable for any cost overruns. Similarly, any economies in construction costs will flow to the developer, provided that the quality of the work is not diminished. No further verification of the cost of work will be necessary following the detailed design and estimation. However, a valuation will be required, as the work will form part of Council's asset register.

### **8.6 TRANSFER OF LAND**

Where Council considers that land is to be transferred is an integral part of a development proposal or the land transfer is required because it contains works for the benefit of the community, Council can require the land to be transferred to Council.

## 8.7 CREDITS

Prior to work being commenced, which would result in a developer entering into a position of credit, Council approval will be required. This may occur in conjunction with development consent after assessment of likely Section 94 works.

Following satisfactory completion of any works and their valuation, the item will be acknowledged as a credit against Section 94 liabilities for the relevant section of the budget.

## 8.8 TIMING OF PAYMENT

A contribution is payable on every parcel of land to which a Development Application applies. If a contribution has already been paid under this plan, then no contribution is payable on that portion of the land already levied and paid.

### **Development Applications involving Subdivision works**

- Payment to be made prior to release of a Subdivision Certificate (linen plan).

### **Development Applications involving Building Works**

- Payment to be made prior to the release of a Construction Certificate.

### **Complying Development Works**

- Payment to be made prior to the issue of a Complying Development Certificate.

In the event that this plan is reviewed and new contribution rates are established, any payments not already due will become due on the day prior to the new rates being adopted. The developer may alternately request the contribution be recalculated under the new rates.

## 8.9 TIMING OF WORKS

The rate of receipt of income from Section 94 Contributions is dependent on the rate of development, which is difficult to precisely predict. This Plan aims to provide works within a reasonable period of time in accordance with the indicative timeframes for each of the respective facilities. Nothing in this Plan binds the Council to have to provide any works or material public benefit the subject of this Plan in advance of receipt of sufficient funds through the contributions that have been made under this Plan.

## 8.10 INDEXATION OF CONTRIBUTIONS AFTER ISSUE OF CONSENT

The contributions payable as at the date endorsed on the consent pursuant to section 81(1) of the Environmental Planning and Assessment Act are stated in the Notice of Development

Consent. The Council shall be entitled in the conditions of consent to require such contributions to be increased in accordance with the following formula:

**$NCP = CP \times CPI \text{ (at the date of payment)} \div CPI \text{ (at the date endorsed on the consent pursuant to section 81(1) of the Environmental Planning and Assessment Act)}$**

**NCP** = amount of new contributions payable

**CP** = amount of contributions payable as stated in the Notice of Development Consent

**CPI** = Consumer Price Index (All Groups: Sydney)

The NCP shall become the contributions payable under the Notice of Development Consent.

## 8.11 DEFERRED PAYMENT OF CONTRIBUTIONS

Council will give consideration to any request for deferment of contributions on its merits, however, the developer must make written application.

If Council grants such a request it is conditional upon the applicant providing a suitable Bank Guarantee and Deed of Agreement.

A period for deferral of a contribution will be agreed between the applicant and Council prior to preparation of the Bank Guarantee. The period may be extended in circumstances acceptable to Council.

Interest and an administrative fee will be charged on deferred contributions.

The amount of the Bank Guarantee will be calculated in the following manner:

$$G = C \times (1 + I)^P$$

Where:

**G** is the amount of the Bank Guarantee;

**C** is the contribution owing at the time the contribution is due;

**I** is the estimated compound interest rate set by Council;

**P** is in years.

The guarantee will be terminated when the liability is met by the payment of cash or transfer of land or works.

The Deed of Agreement is to be prepared by Council's solicitors at full cost to the applicant.

If contributions are not paid by the due date the Bank Guarantee will be called up by Council.

## 9. CONTRIBUTIONS RATE SUMMARY

The following rates apply at the time of adoption of the plan.

<b>Works / Facility Type</b>	<b>Contribution Rate Per Hectare</b>
Roads & Traffic Management	\$55,723
Open Space	\$44,381
Community Facilities	\$8,561
Administration	\$1087
<b>Total</b>	<b>\$109,752</b>