

Ku-ring-gai Council

Ku-ring-gai Contributions Plan 2010

Aligned to the Metropolitan
Strategy Development
Period: 2004-2031



SERVIENDO GUBERNO

Ku-ring-gai Contributions Plan 2010

Original Document – Adopted by Council: 23 November 2010

Original Document – Effective Date: 19 December 2010

Amendment One – Adopted by Council: 1 February 2011

Amendment One – Effective Date: 13 February 2011

Amendment Two – Adopted by Council: 14 May 2013

Amendment Two – Effective Date: 26 May 2013

Amendment Three – Adopted by Council: 22 August 2017

Amendment Three – Effective Date: 3 September 2017

Acknowledgements

This Contributions Plan is a review and consolidation of two preceding Contributions Plans:

Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 Residential Development prepared by Dan Brindle of BBC Consulting Planners

and

Ku-ring-gai Town Centres Development Contributions Plan 2008 prepared by Greg New of *Newplan* Urban Planning Solutions

It is inevitable that this review and consolidation has built upon this solid base and supporting information has been carried over into this document. This significant contribution by the authors of these predecessor documents is duly acknowledged.

Notes on the Legislative Context

At the time of drafting completion in November 2009 for subsequent reporting for exhibition the legislation passed by both Houses of Parliament and assented in June 2008 had not yet commenced so far as it applies to development contributions. Further, at the time of reporting this draft Contributions Plan for adoption post-exhibition in November 2010, that legislation also remained uncommenced, but could still be commenced at any time. While it could be argued that there is no compunction to comply with this legislation while it remains uncommenced, nothing in the current legislation precludes a Council from structuring its Contributions Plan with regard to these pending requirements. Any inactive reference in any set of dual references will be amended as part of the post-adoption finalisation for publication process with respect to whichever legislation is in force at the date of coming into force post adoption.

Notes on the Legal Context

At the time of reporting this draft Contributions Plan for adoption, there exists a s94E Direction issued on 16 September 2010 applying to the Ku-ring-gai Local Government Area. This s94E Direction limits development contributions on residential dwellings to a maximum of \$20,000 *except* in the areas identified in the attached schedule to the s94E Direction.

The area identified in the schedule is a 'grandfathered' area in which there is no active s94E Direction applying an artificial cap to contributions. It relates to the redevelopment areas along the Pacific Highway and in St Ives. These areas are subject to intensive redevelopment with concomitant infrastructure demands that cannot be met within such a cap.

Contributions in this Contributions Plan range from well below \$20,000 to above \$20,000 primarily because they are based on a per capita demand multiplied by occupancy rates. Larger dwellings are responsible for a greater proportional demand than smaller dwellings. Reference to the still current *Development Contributions Practice notes – July 2005* issued by the Department of Planning to guide the preparation of Contributions Plans confirms that this is the correct and equitable way of determining and apportioning relative demand generated on a per capita basis. The *Environmental Planning and Assessment Regulation 2000* requires a council to have regard to these Practice Notes.

This Contributions Plan complies with the s94E Direction issued 16 September 2010 as follows:

- ☑ All 'per dwelling' residential contributions outside the town centre redevelopment areas identified in the maps within this document are below \$20,000 including contributions for single dwellings and dual occupancies in most of the Local Government Area – however it should be noted that the process of CPI and HPI inflation will ultimately carry these contributions over this cap which will become a matter to be addressed if the s94E Direction remains in force at that time;
- ☑ Contributions for all dwellings in Wahroonga which is also outside the 'grandfathered areas' are also below \$20,000 – however it should be noted that the process of CPI and HPI inflation will ultimately carry these contributions over this cap which will become a matter to be addressed if the s94E Direction remains in force at that time;

- ☑ Some 'per dwelling' residential contributions for larger dwellings in the 'grandfathered' areas exceed \$20,000 which is permitted as there is no active contributions cap in these areas;

There is one area of technical non-compliance with the s94E Direction which took effect on and from 16 September 2010 which is acknowledged, without prejudice, as follows:

One of the six centres includes areas that were rezoned for redevelopment by *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* that were not identified in *Ku-ring-gai Town Centres Development Contributions Plan 2008* (which was based on an earlier Draft Local Environmental Plan). These areas will ultimately need to be formally incorporated into the 'grandfathered areas' in order to be permitted to contribute their fair share. Until that time Ku-ring-gai Council remains bound by the present s94E Direction and will, for long as it remains in force, comply with that s94E Direction in respect of any proposed development of these properties.

Please refer to **1.41 Ministerial Directions** for further clarity of the inter-relationship of this Contributions Plan with Ministerial Directions issued under s94E.

Table of Contents

Part A: Summary Schedules	8
Part A: Summary Schedules	9
Summary Works Programmes	10
Part B: Contributions Plan Overview, Management – Policies and Procedures	11
1.1 What is the name of this Contributions Plan?	12
1.2 What is the purpose of this plan?.....	12
1.3 Area to which this Contributions Plan applies	14
1.5 Commencement of the Plan & Transitional Arrangements	24
1.6 Relationship to past Contributions Plans	24
1.7 Relationship to the Strategic Planning Process.....	26
1.8 Key Considerations for Development Contributions	26
1.9 Key Consideration Statement – Temporal Nexus	27
1.10 Key Consideration Statement – Affordability	29
1.10.1 Overview.....	29
1.10.2 Economic Viability of Development.....	30
1.10.3 Housing Affordability	31
1.11 Key Consideration Statement – Apportionment.....	35
1.12 Key Consideration Statement – Cost Estimates.....	36
1.13 Key Consideration Statement – Causal Nexus	37
1.14 Direct Development Contributions and Indirect Levies	38
1.15 Administration of the Contributions System	40
1.16 How are Contributions derived?.....	40
1.17 Determining the Nett Increase in Demand.....	40
1.18 Complying Development	42
1.19 Construction Certificates	43
1.20 When are the Contributions payable?.....	43
1.21 Payment of Contributions.....	46
1.21.1 Monetary Contributions.....	46
1.21.2 Planning Agreements - Overview	46
1.21.3 Planning Agreements with Land Provision for Infrastructure Purposes.....	46
1.21.4 Planning Agreements: Works in Kind and Material Public Benefits.....	47
1.21.5 Planning Agreements: Development not covered by this Contributions Plan	48
1.22 Goods and Services Tax (GST).....	49
1.23 Deferred or Periodic payments.....	49
1.23.1 General matters relating to Bank Guarantees.....	50
1.24 Works exceeding the required Contribution.....	51
1.25 Exemptions from the Contributions Plan	51
1.26 Merit Exemptions from the Contributions Plan	52
1.27 Contributions and Part 3A Development (Ministerial Sites)	53
1.28 Contributions and Development by the Crown	53
1.29 Contributions and the Economic Stimulus Plan.....	53
1.29.1 Education Projects.....	53
1.29.2 Social Housing Projects	54
1.30 Contributions and Aged and Disabled Persons Housing	55
1.31 Contributions and Affordable Housing	55
1.31.1 Affordable Rental Housing	56
1.31.2 Social Housing Providers	57

Table of Contents

1.32	Boarding Houses, Group Homes and Affordable Housing.....	57
1.33	Contributions and Temporary Uses.....	57
1.34	Accounting for Development Contributions.....	58
1.35	Policy on Grants and Development Contributions.....	58
1.36	Policy for the Recoupment of Past Works.....	58
1.37	Modifications to Development Consents.....	59
1.37.1	Where the Original Contribution has not been paid.....	59
1.37.2	Where the Original Contribution has been paid.....	59
1.38	Indexation of Contributions.....	60
1.39	Pooling of Contributions.....	62
1.40	Discounting.....	62
1.41	Ministerial Directions under s94E.....	63
1.42	Monitoring and Review.....	64
1.43	Dictionary and References.....	64
	Part C: Strategy Plans.....	65
	Key Community Infrastructure.....	65
	Infrastructure Planning Overview.....	65
2.0	Ku-ring-gai in Profile.....	66
2.1	The Role of Ku-ring-gai as part of Greater Sydney.....	66
2.2	Ku-ring-gai and the Metropolitan Strategy.....	67
2.3	Focus on Town Centre and Pacific Highway Development.....	67
2.4	Development outside the Town Centres.....	68
2.5	Infrastructure Contributions Supporting Development.....	69
2.6	Scope of Key Community Infrastructure Demarcations.....	70
2.6.1	Key Community Infrastructure – Public Places.....	71
2.6.2	Key Community Infrastructure – Civic Spaces and Urban Parks.....	72
2.6.3	Key Community Infrastructure – The Pedestrian Environment.....	72
2.6.4	Key Community Infrastructure – Cycleways.....	73
2.6.5	Key Community Infrastructure – Local vs District vs Additional Infrastructure.....	73
2.6.6	Management, Studies and Administration.....	74
2.7	Integration of Town Centre Planning and Planning for Ku-ring-gai.....	75
2.7.1	Future Character of Gordon.....	75
2.7.2	Future Character of Lindfield.....	76
2.7.3	Future Character of Pymble.....	77
2.7.4	Future Character of Roseville.....	77
2.7.5	Future Character of St Ives.....	77
2.7.6	Future Character of Turramurra.....	78
2.8	Recent Ku-ring-gai Development.....	78
2.9	Residential Development Potential and Trends.....	79
2.9.1	New Dwelling Forecasts.....	80
2.9.2	Population Growth Forecasts.....	80
2.9.3	Forecasting Non-Private Dwelling Development.....	81
2.10	Residential Occupancy Rates.....	82
2.11	Commercial Floorspace and Employment Projected Growth.....	83
2.11.1	Town Centres Planning for Commercial Floorspace and Employment Growth.....	84
2.12	A Note about Population Projections and Population Forecasts.....	85
2.13	Life of the Contributions Plan.....	86
2.14	The Demography of Ku-ring-gai.....	87
2.14.1	A Note about Place of Enumeration and Place of Usual Residence.....	87
2.14.2	Age Structure of Ku-ring-gai Residents.....	89

Table of Contents

2.14.3	Structure of Dwellings.....	90
2.14.4	Household Size	91
2.14.5	Household Structures	91
2.14.6	Non-Private Dwellings	92
2.14.7	Household Mobility	93
2.14.8	The Ku-ring-gai Workforce and the Ku-ring-gai Labour Force	94
2.14.9	Ku-ring-gai Employment.....	96
2.14.10	Ku-ring-gai Businesses	97
2.14.11	Motor Vehicles for Ku-ring-gai Households.....	97
2.15	Ku-ring-gai: Emergent demographic trends.....	98
2.16	Key indicators for infrastructure planning in Ku-ring-gai.....	100
2.17	Summary of Development and Population Growth and Demand	101
2.18	Vision for Ku-ring-gai.....	101
	Key Community Infrastructure: Local parks; Local sporting facilities	102
3.0	Overview of Parkland in Ku-ring-gai	103
3.1	Aims and Objectives	105
3.2	Nexus Overview	105
3.3	Current Open Space Provision	105
3.3.1	Total Open Space Provision in Ku-ring-gai	106
3.3.2	Local Parkland Distribution in Ku-ring-gai	107
3.3.3	Local Parks and the Ku-ring-gai Town Centres.....	108
3.3.4	Local sportsfields in Ku-ring-gai	109
3.4	Causal Nexus for New Local Parks	110
3.5	Causal Nexus for New Town Centre Local Parks as Civic Spaces	110
3.6	Geographic and Temporal Nexus.....	111
3.7	Land Acquisition for New Open Space and New Civic Space.....	113
3.8	Land Values for the Acquisition of New Open Space.....	113
3.9	Properties to be zoned RE1 for Future Open Space Acquisition	114
3.10	Process of land acquisition for new local parks	116
3.11	Innovative avenues for the provision of new local parks	116
3.12	Overview of Future Open Space and Recreation Needs.....	117
3.13	Open Space and Recreation Needs by age group	117
3.13.1	Infants and School Aged Children.....	117
3.13.2	Young Adults	118
3.13.3	The Middle Adult Years.....	119
3.13.4	Older Adult Age Groups.....	120
3.14	Embellishment cost for new local parks	121
3.15	Embellishment costs for civic spaces	122
3.16	New and Existing Parks: Playgrounds and Child-Friendly Parks	122
3.17	New and Existing Parks: Community Gardens.....	123
3.18	Nexus for the Embellishment of Existing Open Space.....	124
3.19	Overview of the Works Programme: Existing Parks Embellishment.....	125
3.20	Local Sporting Facilities – Netball Courts.....	125
3.21	Local Sporting Facilities – Sportsfields and Ovals	126
3.22	Local Sporting Facilities – West Pymble Aquatic Centre.....	128
3.23	Apportionment for New Local Parks	128
3.24	Apportionment for Works to Existing Parks and Linkages.....	129
3.25	Local parks and Local sporting facilities – Support.....	130
3.26	Formulae: Local parks and Local sporting facilities	130
3.27	Policy on Unanticipated Additional Funding	131

Table of Contents

3.28	Concluding Statement – Statement of Reasonableness.....	131
	Key Community Infrastructure: Local recreational and cultural facilities; Local social facilities	133
4.0	Overview of Community Facilities in Ku-ring-gai.....	134
4.1	Aims and Objectives	135
4.2	Nexus for Local Social, Recreational and Cultural Facilities	135
4.3	Overview of Capacity in current Community Facilities	135
4.4	Local Social Facilities – Libraries	136
4.4.1	Role of the Local Library	136
4.4.2	Current Facilities and Capacity	136
4.4.3	Libraries and the Ageing Population	138
4.4.4	Libraries and Youth	139
4.4.5	Summary of Library Needs	139
4.4.6	Geographic Nexus for the Library Network.....	140
4.4.7	Works Programme for Libraries.....	140
4.4.8	Apportionment for Libraries	141
4.5	Local Social and Cultural Facilities	141
4.5.1	Local Social and Cultural Facilities – Current Community Space.....	142
4.5.2	Local Social and Cultural Facilities – Future Multi-Purpose Community Space	143
4.6	Local Social and Cultural Facilities – Facilities for Young People	143
4.7	Local Social and Cultural Facilities – Facilities for Seniors	144
4.8	Local Social and Cultural Facilities – Cultural Purposes	145
4.9	Local Social Facilities – Facilities for Children	146
4.9.1	Consultation with Service Providers.....	147
4.9.2	An on-going role for Local Government in the provision of Childcare.....	147
4.10	Local Social and Cultural Facilities – Community Meeting Space	148
4.11	Local Social and Cultural Facilities – Provision for Service Providers	149
4.12	Ku-ring-gai Wildflower Garden.....	149
4.13	Local Social and Cultural Facilities – Works Programme	150
4.14	Local Recreational Facilities – West Pymble Aquatic Centre.....	150
4.15	Local Recreational, Social & Cultural Facilities – Support.....	151
4.16	Overview of the Works Programmes	151
4.17	Formulae: Local social, recreational and cultural facilities.....	152
4.18	Location and Design Principles for Community Facilities	152
4.18.1	Design	152
4.18.2	Size, scale, location and place-making	153
4.18.3	Multi-purpose and multi-function facilities / Clustering / Co-location.....	153
4.18.4	Sustainability and future management	153
4.19	Policy on Unanticipated Additional Funding	153
4.20	Concluding Statement – Statement of Reasonableness.....	154
	Key Community Infrastructure: Local Roads; Local Bus Facilities Local Drainage Works	156
5.0	Overview of Development and Demand	157
5.1	Principles of Nexus.....	158
5.1.1	Transport and the Journey-to-Work.....	158
5.1.2	Transport and other trips.....	158
5.1.3	Accessible pedestrian-friendly town centres.....	159
5.2	Summary of the Works Programmes	159
5.3	Local Roads: Nexus for Works to Local Roads	159
5.3.1	Gordon Town Centre.....	160
5.3.2	Turramurra Town Centre	163

Table of Contents

5.3.3	Lindfield Town Centre	165
5.3.4	Pymble Town Centre	167
5.3.5	Pymble Business Park	169
5.3.6	St Ives Town Centre.....	170
5.3.7	Roseville Town Centre.....	172
5.4	Local Roads: Local Area Traffic Management and Intersections.....	173
5.5	Apportionment for Local Roads: Intersection Treatments.....	175
5.6	Development of New Roads: Land and Construction Cost	175
5.6.1	Properties to be zoned SP2 for Future Local Road Acquisition.....	176
5.6.2	Other properties targeted for New Roads and Linkages	177
5.6.3	Apportionment for New Streets and Modifications to Existing Streets.....	178
5.6.4	Apportionment by Trip Generation.....	179
5.6.5	Policy for the Treatment of Residual Acquired Land	179
5.7	Local Roads: Nexus for Streetscape and the Public Domain	180
5.7.1	Key role of the public domain	180
5.7.2	Additional roles of the public domain	181
5.7.3	Design principles for the public domain.....	182
5.7.4	Apportionment for Works to the Streetscape and the Public Domain	183
5.8	Local Roads: Cycleways	184
5.9	Responsibilities of State and Local Government.....	185
5.10	Works required by Conditions of Consent	186
5.11	Formulae: Local Roads, Local bus infrastructure and Local drainage.....	186
5.11.1	Formulae: Works in the road environment	186
5.11.2	Formulae: Works to the pedestrian environment, local transport infrastructure, streetscape and the public domain.....	188
5.12	Facilities not included in this Contributions Plan	188
5.13	Local Roads and Local Bus Infrastructure - Support	190
5.14	Concluding Statement – Statement of Reasonableness.....	190
Part D: Dictionary and References		192
6.1	Dictionary.....	193
6.2	References.....	199
Works Programmes		205
Works Programmes: Local parks, local sporting facilities - North		206
Works Programmes: Local parks, local sporting facilities - South		207
Works Programmes: Local parks, local sporting facilities – Whole of LGA		208
Works Programmes: Local recreational and cultural facilities, and local social facilities.....		210
Works Programmes: local roads and local bus facilities and local drainage facilities - Gordon		212
Works Programmes: local roads and local bus facilities and local drainage facilities - Lindfield		214
Works Programmes: local roads and local bus facilities and local drainage facilities - Pymble		216
Works Programmes: local roads and local bus facilities and local drainage facilities - Roseville.....		218
Works Programmes: local roads and local bus facilities and local drainage facilities – St Ives		220
Works Programmes: local roads and local bus facilities and local drainage facilities - Turramurra.....		222
Works Programmes: local roads and local bus facilities and local drainage facilities - Wahroonga.....		224
Works Programme Mapping		225

List of Figures

Part B: Contributions Plan Overview, Management – Policies and Procedures

- Figure 1.1 Map of the Ku-ring-gai Local Government Area covered by this Contributions Plan
- Figure 1.2 Roseville
- Figure 1.3 Lindfield – Killara
- Figure 1.4 Killara – Gordon
- Figure 1.5 Pymble and Pymble Business Park
- Figure 1.6 Turramurra to Warrawee
- Figure 1.7 Wahroonga
- Figure 1.8 St Ives
- Figure 1.9: Strata Sales in Ku-ring-gai

Part C: Strategy Plans: Key Community Infrastructure: Infrastructure Planning Overview

- Figure 2.1: Building Approvals for Dwellings in Ku-ring-gai 2004 - 2008
- Figure 2.2: Estimated Nett Additional Dwellings in Ku-ring-gai 2004 - 2031
- Figure 2.3: Estimated Nett Additional Population Growth in Ku-ring-gai 2004 - 2031
- Figure 2.4: Population Growth in Ku-ring-gai 2004 – 2031
- Figure 2.5: Commercial Floorspace in Ku-ring-gai (2006)
- Figure 2.6: Commercial Floorspace Potential in Ku-ring-gai
- Figure 2.7: Ku-ring-gai Estimated Resident Population 2004-2008
- Figure 2.8: Progression of Ku-ring-gai's current development phase
- Figure 2.9: Suburbs of Ku-ring-gai Local Government Area
- Figure 2.10: Ku-ring-gai Age Structures
- Figure 2.11: Life Stages in Ku-ring-gai 2006 Census
- Figure 2.12: Structure of Dwellings in Ku-ring-gai 1996-2006 Census
- Figure 2.13: Household Size in Ku-ring-gai
- Figure 2.14: Family and Household Structures
- Figure 2.15: Ku-ring-gai Residents of Non-private Dwellings 2006 Census
- Figure 2.16: Ku-ring-gai residents between the 2001 and 2006 Census
- Figure 2.17: Area of Employment Statistics
- Figure 2.18: Labour force Journey to Work Statistics
- Figure 2.19: Workforce Journey to Work Statistics
- Figure 2.20: Employment by Industry within Ku-ring-gai (Place of Work)
- Figure 2.21: Access to Motor Vehicles

Key Community Infrastructure: Local parks; Local sporting facilities

- Figure 3.1 Priority Open Space Acquisition Map – Open Space Acquisition Strategy
- Figure 3.2: Total Open Space in Ku-ring-gai
- Figure 3.3: Local Urban Parks and Public Gardens
- Figure 3.4: Local Parks and the Estimated Resident Population
- Figure 3.5: Local Sports Reserves
- Figure 3.6: Residential Land Estimates Acquisition Costs
- Figure 3.7: Playground Works Programme
- Figure 3.8: Demography of Respondents interested in a Community Garden
- Figure 3.9: Sportsgrounds and Ovals
- Figure 3.10: Future Access to Local Open Space

Key Community Infrastructure: Local recreational and cultural facilities; Local social facilities

- Figure 4.1: Childcare Provision and Demand in Ku-ring-gai
- Figure 4.2: Community Floorspace in Ku-ring-gai

List of Figures

Key Community Infrastructure: Local Roads; Local Bus Facilities; Local Drainage

Figure 5.1: Sites with Land Zoned Infrastructure SP2 under the Town Centres LEP

Figure 5.2: Sites with Land Targeted under the Ku-ring-gai Town Centres DCP

Figure 5.3: Trip Generation by Land Use

Figure 5.4: Trip Generation by Land Use by Town Centre

Part A: Summary Schedules

Summary Contribution Rates

Contribution Rates

Person Per Capita	Dwelling Houses		Units, Townhouses, Villas					Other Residential		Retail	Business
	2 bedrooms (or less)	3 bedrooms (or more)	Studio/Bedrels	1 bedroom	2 bedrooms	3+ bedrooms	Seniors Living	New/lot subdivision	Non private dwelling	Per square metres of GFA	Per square metres of GFA
1.0	1.9	2.6	1.0	1.2	1.7	2.1	1.3	2.6	1.0		

Northern Areas Outside those Specified on the Town Centres and Local Centre Catchment Maps at figures 1.2-1.8 (all suburbs north of Ryde Road and Mona Vale Road plus St Ives)												
Local parks and Local sporting facilities	\$6,015.80	\$11,430.02	\$15,641.08	\$6,015.80	\$7,218.96	\$10,226.86	\$12,633.18	\$7,820.54	\$15,641.08	\$6,015.80	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Total	\$7,045.29	\$13,386.06	\$18,317.76	\$7,045.29	\$8,454.35	\$11,977.00	\$14,795.11	\$9,158.88	\$18,317.76	\$7,045.29	NA	NA

Southern Areas Outside those specified on the Town Centres and Local Centre Catchment Maps at figures 1.2-1.8 (all suburbs south of Ryde Road and Mona Vale Road excluding St Ives)												
Local parks and Local sporting facilities	\$5,593.20	\$10,627.07	\$14,542.31	\$5,593.20	\$6,711.83	\$9,508.43	\$11,745.71	\$7,271.15	\$14,542.31	\$5,593.20	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Total	\$6,622.69	\$12,583.10	\$17,218.98	\$6,622.69	\$7,947.22	\$11,258.57	\$13,907.64	\$8,609.49	\$17,218.98	\$6,622.69	NA	NA

Turramurra Town Centre (see catchment map at figure 1.6)												
Local parks and Local sporting facilities	\$6,135.92	\$11,658.24	\$15,953.38	\$6,135.92	\$7,363.10	\$10,431.06	\$12,885.42	\$7,976.69	\$15,953.38	\$6,135.92	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$2,058.09	\$4,373.44	\$4,373.44	\$2,058.09	\$2,058.09	\$2,572.61	\$3,344.40	\$2,315.35	\$4,373.44	\$0.00	\$236.68	\$102.90
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$5,394.15	\$10,248.89	\$14,024.80	\$5,394.15	\$6,472.98	\$9,170.06	\$11,327.72	\$7,012.40	\$14,024.80	\$5,394.15	NA	NA
Total	\$14,617.65	\$28,236.61	\$37,028.30	\$14,617.65	\$17,129.56	\$23,923.86	\$29,719.47	\$18,642.78	\$37,028.30	\$12,559.56	\$236.68	\$102.90

St Ives Town Centre (see catchment map at figure 1.8)												
Local parks and Local sporting facilities	\$7,414.35	\$14,087.27	\$19,277.31	\$7,414.35	\$8,897.22	\$12,604.40	\$15,570.14	\$9,638.66	\$19,277.31	\$7,414.35	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$579.22	\$1,230.84	\$1,230.84	\$579.22	\$579.22	\$724.02	\$941.23	\$651.62	\$1,230.84	\$0.00	\$66.61	\$28.96
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$4,819.86	\$9,157.73	\$12,531.63	\$4,819.86	\$5,783.83	\$8,193.76	\$10,121.70	\$6,265.82	\$12,531.63	\$4,819.86	NA	NA
Total	\$13,842.92	\$26,431.87	\$35,716.46	\$13,842.92	\$16,495.66	\$23,272.31	\$28,795.00	\$17,894.43	\$35,716.46	\$13,263.70	\$66.61	\$28.96

Pymble Town Centre and Pymble Business Park (see catchment map at figure 1.5)												
Local parks and Local sporting facilities	\$7,177.89	\$13,637.98	\$18,662.50	\$7,177.89	\$8,613.46	\$12,202.41	\$15,073.56	\$9,331.25	\$18,662.50	\$7,177.89	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$1,854.77	\$3,941.39	\$3,941.39	\$1,854.77	\$1,854.77	\$2,318.46	\$3,014.00	\$2,086.62	\$3,941.39	\$0.00	\$213.30	\$92.74
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$4,031.25	\$7,659.37	\$10,481.25	\$4,031.25	\$4,837.50	\$6,853.12	\$8,465.62	\$5,240.62	\$10,481.25	\$4,031.25	NA	NA
Total	\$14,093.40	\$27,194.78	\$35,761.81	\$14,093.40	\$16,541.12	\$23,124.13	\$28,715.12	\$17,996.83	\$35,761.81	\$12,238.63	\$213.30	\$92.74

* Contributions for New Roads and Road Modifications are based on trip generation not per capita demand. The per capita figure cannot be multiplied by the occupancy rate to derive a total for this category (see section 5.11).
Note: Residential non-private dwellings such as institutions, hostels, boarding houses, nurses' accommodation, seminaries, boarding schools and the like will be assessed in accordance with the number of persons intended to be resident on the basis of one resident per bed as well as on their individual merits as presented in the Statement of Environmental Effects. Applicants for low cost accommodation should specifically refer to sections 1.25 - 1.33.

Part A: Summary Schedules

Summary Contribution Rates

Contribution Rates

Person Per Capita	Dwelling Houses			Units, Townhouses, Villas				Other Residential		Retail	Business
	2 bedrooms (or less)	3 bedrooms (or more)	Studios/Bedits	1 bedroom	2 bedrooms	3+ bedrooms	Seniors Living	New lot subdivision	Non private dwelling	Per square metre of GFA	Per square metre of GFA
1.0	1.9	2.6	1.0	1.2	1.7	2.1	1.3	2.6	1.0		

Gordon Town Centre (see catchment map at figure 1.4)

Local parks and Local sporting facilities	\$5,955.72	\$11,315.88	\$15,484.88	\$5,955.72	\$7,146.87	\$10,124.73	\$12,507.02	\$7,742.44	\$15,484.88	\$5,955.72	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$2,933.04	\$6,232.70	\$6,232.70	\$2,933.04	\$2,933.04	\$3,666.30	\$4,766.19	\$3,299.67	\$6,232.70	\$0.00	\$337.30	\$146.65
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$3,679.22	\$6,990.52	\$9,565.98	\$3,679.22	\$4,415.07	\$6,254.68	\$7,726.37	\$4,782.99	\$9,565.98	\$3,679.22	NA	NA
Total	\$13,597.48	\$26,495.14	\$33,960.24	\$13,597.48	\$15,730.36	\$21,795.84	\$27,161.51	\$17,163.44	\$33,960.24	\$10,664.44	\$337.30	\$146.65

Lindfield Town Centre (see catchment map at figure 1.3)

Local parks and Local sporting facilities	\$5,769.12	\$10,961.34	\$14,999.72	\$5,769.12	\$6,922.95	\$9,807.51	\$12,115.16	\$7,499.86	\$14,999.72	\$5,769.12	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$1,418.47	\$3,014.25	\$3,014.25	\$1,418.47	\$1,418.47	\$1,773.09	\$2,305.02	\$1,595.78	\$3,014.25	\$0.00	\$163.12	\$70.92
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$4,041.96	\$7,679.72	\$10,509.10	\$4,041.96	\$4,850.35	\$6,871.33	\$8,488.12	\$5,254.55	\$10,509.10	\$4,041.96	NA	NA
Total	\$12,259.05	\$23,611.35	\$31,199.75	\$12,259.05	\$14,427.16	\$20,202.07	\$25,070.23	\$15,688.53	\$31,199.75	\$10,840.58	\$163.12	\$70.92

Roseville Town Centre (see catchment map at figure 1.2)

Local parks and Local sporting facilities	\$5,908.39	\$11,225.95	\$15,361.82	\$5,908.39	\$7,090.07	\$10,044.27	\$12,407.63	\$7,680.91	\$15,361.82	\$5,908.39	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities (New Roads and Road Modifications)*	\$702.65	\$1,493.12	\$1,493.12	\$702.65	\$702.65	\$878.31	\$1,141.80	\$790.48	\$1,493.12	\$0.00	\$80.80	\$35.13
Local roads, Local bus facilities & Local drainage facilities (Townscape, Transport & Pedestrian facilities)	\$6,013.28	\$11,425.23	\$15,634.53	\$6,013.28	\$7,215.94	\$10,222.58	\$12,627.89	\$7,817.26	\$15,634.53	\$6,013.28	NA	NA
Total	\$13,653.81	\$26,100.34	\$35,166.15	\$13,653.81	\$16,244.04	\$22,895.29	\$28,339.25	\$17,626.99	\$35,166.15	\$12,951.16	\$80.80	\$35.13

Wahroonga Local Centre (see catchment map at figure 1.7)

Local parks and Local sporting facilities	\$6,015.80	\$11,430.02	\$15,641.08	\$6,015.80	\$7,218.96	\$10,226.86	\$12,633.18	\$7,820.54	\$15,641.08	\$6,015.80	NA	NA
Local recreational and cultural, Local social facilities	\$1,029.49	\$1,956.03	\$2,676.68	\$1,029.49	\$1,235.39	\$1,750.13	\$2,161.93	\$1,338.34	\$2,676.68	\$1,029.49	NA	NA
Local roads, Local bus facilities & Local drainage facilities	\$476.75	\$905.82	\$1,239.55	\$476.75	\$572.10	\$810.47	\$1,001.17	\$619.77	\$1,239.55	\$476.75	NA	NA
Total	\$7,522.04	\$14,291.88	\$19,557.31	\$7,522.04	\$9,026.45	\$12,787.47	\$15,796.29	\$9,778.65	\$19,557.31	\$7,522.04	\$0.00	\$0.00

* Contributions for New Roads and Road Modifications are based on trip generation not per capita demand. The per capita figure cannot be multiplied by occupancy rates to derive a total for this category (see section 5.11). **Note:** Residential non-private dwellings such as institutions, hostels, boarding houses, nurses' accommodation, seminaries, boarding schools and the like will be assessed in accordance with the number of persons intended to be resident on the basis of one resident per bed as well as on their individual merits as presented in the Statement of Environmental Effects. Applicants for low cost accommodation should specifically refer to sections 1.25 - 1.33.

Summary Works Programmes

Total works programme for all categories of contribution for Key Community Infrastructure¹

It is emphasised that these figures represent the total capital cost of the works programme over 25 years from 2004 to 2031.

Apportionment of individual works in the works programme ranges from approximately 85% Ku-ring-gai Council:15% New Development (where the demand is generated by both the existing and the new population) though to 100% New Development (where the proposed works simply maintain (up to) current per capita rates of provision or where these works are triggered by the cumulative impact of the new development and would not be carried out but for that development).

Following exhibition, savings of nearly \$50M have been made by reducing the scale and extent of the works programme in response to submissions and with a view to bringing contribution rates for new dwellings under \$30,000 in line with other urban development areas which also feature land acquisition cost for both roads and open space.

Key Community Infrastructure	
Area & Categories	Estimated Total Capital Costs
Northern Suburbs Works Programme	
Local parks and Local sporting facilities - North	\$68,707,670
Southern Suburbs Works Programme	
Local parks and Local sporting facilities - South	\$53,908,546
Whole of LGA Works Programme	
Local parks and Local sporting facilities - LGA	\$54,957,481
Local recreational and cultural, Local social facilities	\$72,472,085
Gordon Town Centre	
Local roads, Local bus facilities & Local drainage facilities	\$39,760,323
Lindfield Town Centre	
Local roads, Local bus facilities & Local drainage facilities	\$20,336,084
Pymble Town Centre & Pymble Business Park	
Local roads, Local bus facilities & Local drainage facilities	\$18,017,382
Roseville Town Centre	
Local roads, Local bus facilities & Local drainage facilities	\$12,825,147
St Ives Town Centre	
Local roads, Local bus facilities & Local drainage facilities	\$18,466,119
Turrumurra Town Centre	
Local roads, Local bus facilities & Local drainage facilities	\$23,349,156
Wahroonga Local Centre	
Local roads, Local bus facilities & Local drainage facilities	\$728,949
Total	\$383,528,942

¹ It should be noted that these works are apportioned to various degrees as specified in the relevant chapters between the population and traffic generation of the anticipated development and the status quo at the commencement of the present development phase in 2004. Some development has already commenced and has been levied under the past Contributions Plans for works carried over into this Contributions Plan (retaining the base date of 2004 to preclude any double-levying). Some development commenced prior to the in force date of *Ku-ring-gai Town Centres Contributions Plan 2008* resulting in a shortfall that must be covered by Ku-ring-gai Council since it is inappropriate to seek to recover any backlog. This is in addition to co-contributions required by the rules of apportionment.

Part B: Contributions Plan Overview, Management – Policies and Procedures

1.1 What is the name of this Contributions Plan?

This Contributions Plan is called: *Ku-ring-gai Contributions Plan 2010*. This document is a Contributions Plan under Division 6² of the *Environmental Planning and Assessment Act, 1979* as amended.

This Contributions Plan is the result of a review and consolidation of two major Contributions Plans: *Ku-ring-gai Town Centres Development Contributions Plan 2008* and *Ku-ring-gai Section 94 Contributions Plans 2004-2009 - Residential Development (Amendment Two)*. It supersedes these and all other Contributions Plans previously applying to all types of development in the Ku-ring-gai Local Government Area.

Important Note: At the time of the finalisation of this Contributions Plan in November 2010 following its exhibition, there exists legislation passed by Parliament on Wednesday 18 June 2008 and assented on Wednesday 25 June 2008 that is not yet commenced so far as it applies to development contributions but could be commenced by proclamation at any time. It is understood that there will be savings provisions for draft Contributions Plans which been exhibited as this document has been.

The adoption of this Contributions Plan has already been delayed as a result of the legislative uncertainty governing contributions prevailing during 2010. Ku-ring-gai Council is not in a position to further delay this consolidated Contributions Plan until such time as there is absolute legislative certainty in respect of the development contributions system due to the necessity of ensuring the active Contributions Plan accurately reflects and supports the current in force LEPs and DCPs and due to the need to replace the 2004-2009 Section 94 Contributions Plan for Residential Development. In this context the gazettal of *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* took effect from 25 May 2010. It is noted that this Contributions Plan was intended to be reported for adoption in June 2010 concurrent with the *Ku-ring-gai Development Control Plan (Town Centres) 2010*, but for a s94E Direction issued on 4 June 2010. That s94E Direction has subsequently been revoked.

Accordingly, this Contributions Plan has been prepared with reference to both the current and the as yet uncommenced legislation. Following adoption, whichever legislative references are not relevant will be deleted. At the time of drafting there were no revised Practice Notes or formally Guidelines issued by the Department of Planning. Reference was duly made to the still current Practice Notes on the Department of Planning website. A consultation draft of Guidelines for Part 5B Contributions Plans was exhibited after this document was reported for exhibition. Limited changes have been possible post-exhibition as these guidelines remain a draft.

1.2 What is the purpose of this plan?

The purpose of this plan is to enable the council to require a direct contribution in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979* (and the *Regulations* thereunder) towards the provision, extension and/or augmentation of the following types of Key Community Infrastructure³:

² **Note:** Part 5B Provision of Public Infrastructure had not yet commenced at the time this Contributions Plan was approved by Ku-ring-gai Council on 23 November 2010.

³ While this Contributions Plan uses the terminology of a future Part 5B Contributions Plan with the intent of facilitating future conversion, it remains, formally, a Section 94 Contributions Plan.

- ✓ Local parks
- ✓ Local sporting facilities
- ✓ Local recreational and cultural facilities
- ✓ Local social facilities
- ✓ Local roads
- ✓ Local bus facilities
- ✓ Land associated with the above local facilities (exclusive of riparian corridors)
- ✓ Drainage and stormwater management works (where integrated with local parks and local roads)

This Contributions Plan does not provide for additional car parking other than as required for the public facilities identified in the works programme. Ku-ring-gai Council expects that all new development will accommodate the required car parking on-site. Applications for change of use of existing developments will be considered on the individual merit of each application.

Where indicated within the plan (including the works programmes) the recoupment of the costs in providing these types of infrastructure in anticipation of development is also covered by this Contributions Plan.

This Contribution Plan:

- seeks to ensure that the level of community and physical infrastructure provided throughout Ku-ring-gai is adequate to address the cumulative demand from new development;
- enables the council to impose conditions when granting consent to development on land to which this plan applies;
- enables the council to recoup funds which it spends on the provision of community infrastructure in anticipation of likely future development;
- provides a framework under which strategies for the provision of community infrastructure may be implemented and coordinated;
- provides a comprehensive strategy for the assessment, collection, expenditure, accounting and review of contributions over the life of the Contributions Plan;
- strives to ensure that the existing community is not burdened by the provision of new key community infrastructure required as a result of new development nor disadvantaged by increased pressure on current facilities provision; and
- enables the council to be publicly accountable in its management of the contributions system.

This Contributions Plan builds upon extensive work undertaken for the preparation of the *Ku-ring-gai Town Centres Development Contributions Plan 2008*, itself supported by the *Development Contributions Strategy 2007*.⁴

This Contributions Plan supports the integrated planning of the Ku-ring-gai Local Government Area through the Local Environmental Plans, Development Control Plans and other planning and policy documents guiding the future of Ku-ring-gai. Alongside the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* and *Ku-ring-gai Development Control Plan (Town Centres) 2010* it supports the provision of infrastructure to support concentrated development and population growth around six key town centres.

⁴ These two documents were prepared on behalf of Ku-ring-gai Council by *Newplan Urban Planning Solutions*.

This Contributions Plan is essentially a baseline Contributions Plan. It levies to provide significantly less than current minimum per capita rates of provision of local open space. It seeks to provide community facilities that will support the future total population appropriately apportioned. It levies to increase the carrying capacity of some existing sportsgrounds and parks and for the development of some additional sportsfields on current open space land but does not seek to purchase additional land for sportsgrounds. It levies contributions towards the works which enable increasing numbers of people to move about within the area – pedestrian routes, traffic and transport improvements, cycleways and improvements to town centres. It levies for the provision of new roads and road improvements to manage the increased need for vehicular and pedestrian circulation in and around the key town centres arising as a direct result of the concentration of development.

In this development phase, covering the period from 2004 to 2031 which mirrors the Metropolitan Strategy, Ku-ring-gai Council is providing for an estimated 12,069 additional dwellings⁵ which will directly accommodate an estimated 21,048 additional residents. The size of the anticipated population increase in the area cannot be absorbed without commensurate provision of facilities or the increased competition for already scarce community resources will have a major impact on both existing and future populations. This is inequitable and unreasonable and will directly impact on the economic viability of future development in the area.

The works programme in this Contributions Plan is apportioned over all new development, large and small, and, where required, the Council pays a pro rata per capita co-contribution on behalf of the existing population.

A more detailed breakdown of the anticipated future development is provided in **Part C: Strategy Plans Sections 2.9 – 2.12**. Apportionment also is further discussed under each category of Key Community Infrastructure.

1.3 Area to which this Contributions Plan applies

This Contributions Plan applies to the Ku-ring-gai Local Government Area as shown on the map overleaf in **Figure 1.1** on Page 13.

The Ku-ring-gai Local Government Area covered by this Contributions Plan is approximately 8,540 hectares (which is 85.4km²) of which approximately 20% is covered by three National Parks: Ku-ring-gai Chase National Park, Garigal National Park and Lane Cove National Park. The urban area (excluding the National Parks) covers approximately 6,850 hectares (being 68.5km²) which is 80% of the LGA.

Some categories of contribution, such as Local parks and sporting facilities and Local social, recreational and cultural facilities, apply to the entire Local Government Area. Open Space catchments further divide the Local Government Area into North and South. Some works to the existing parks in the town centres which will be most impacted by the demand arising from intense new surrounding developments are apportioned to that centre.

⁵ The additional dwelling figures include the mid-range scenario estimates of nett additional development 2004-2031 under the then *Draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008* approved by the Ku-ring-gai Planning Panel on 27 May 2009 and referred to the Minister for Planning for gazettal which ultimately occurred on 25 May 2010 as well as development under the currently in force *Ku-ring-gai Local Environmental Plans 194* and *200*, estimated development potential for key sites such as the University of Technology and Sydney Adventist Hospital, and estimated incremental dual occupancy and seniors living development outside these areas.

Other categories of contribution, such as Local roads (which includes public domain works such as footpath widenings and upgrades) and bus facilities primarily relate only to the Town Centre areas along the Pacific Highway / North Shore Rail Corridor and in St Ives where the highest density redevelopment is concentrated. Some additional drainage works are also included within council's roads reservations. There are separate catchment maps for these works. With respect to these Town Centre specific works, this plan has been divided into catchment areas based on the individual town centres and adjoining Pacific Highway / North Shore Rail Corridor Development.

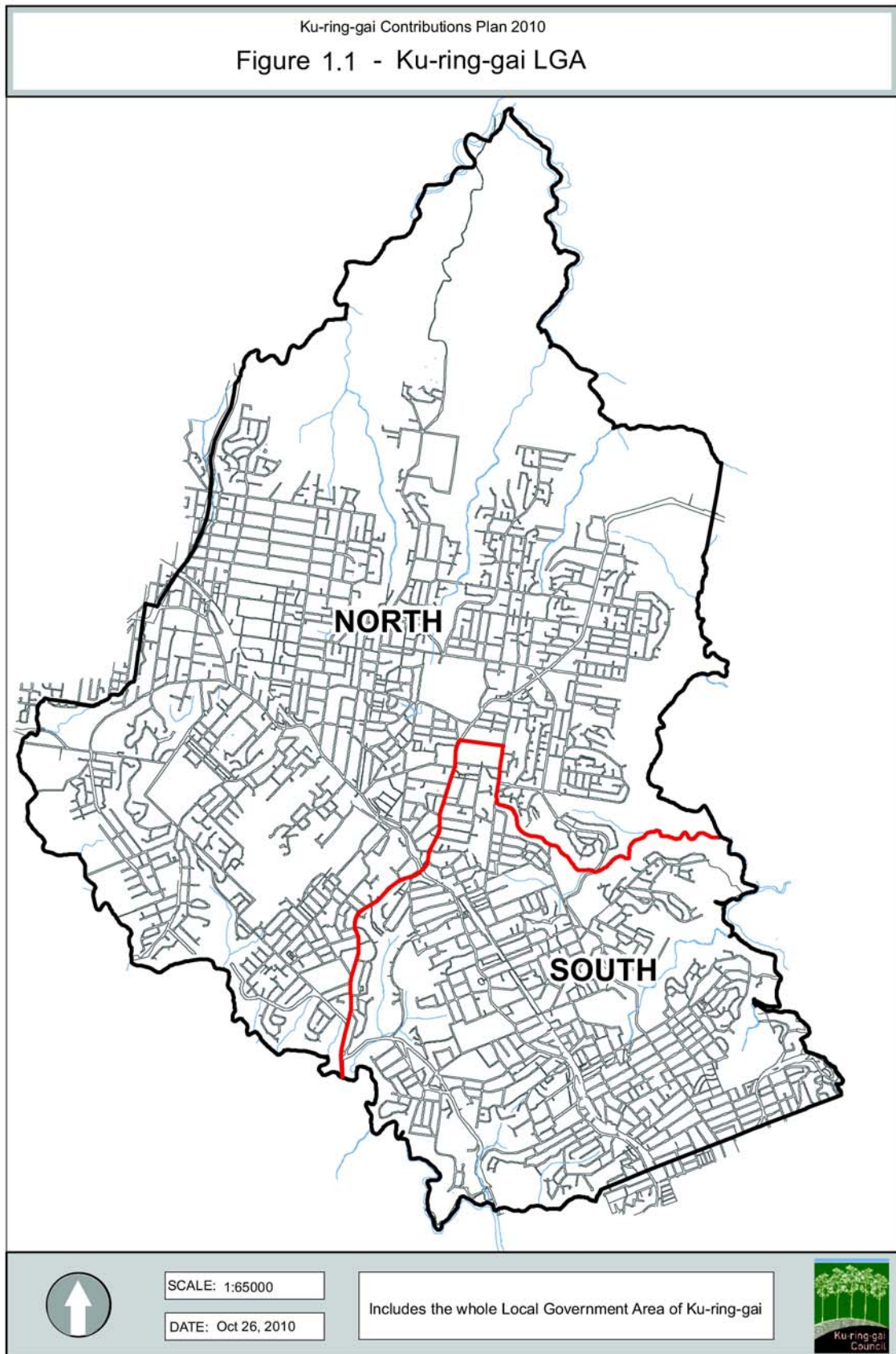
The precise specification of the traffic and transport works that apply solely to the Town Centres Catchments is located in the fifth chapter: **Key Community Infrastructure: Local Roads; Local Bus Facilities; and Local Drainage Works.**

These catchments areas are shown on maps on the following pages numbered for **Figure 1.2 to Figure 1.8.**

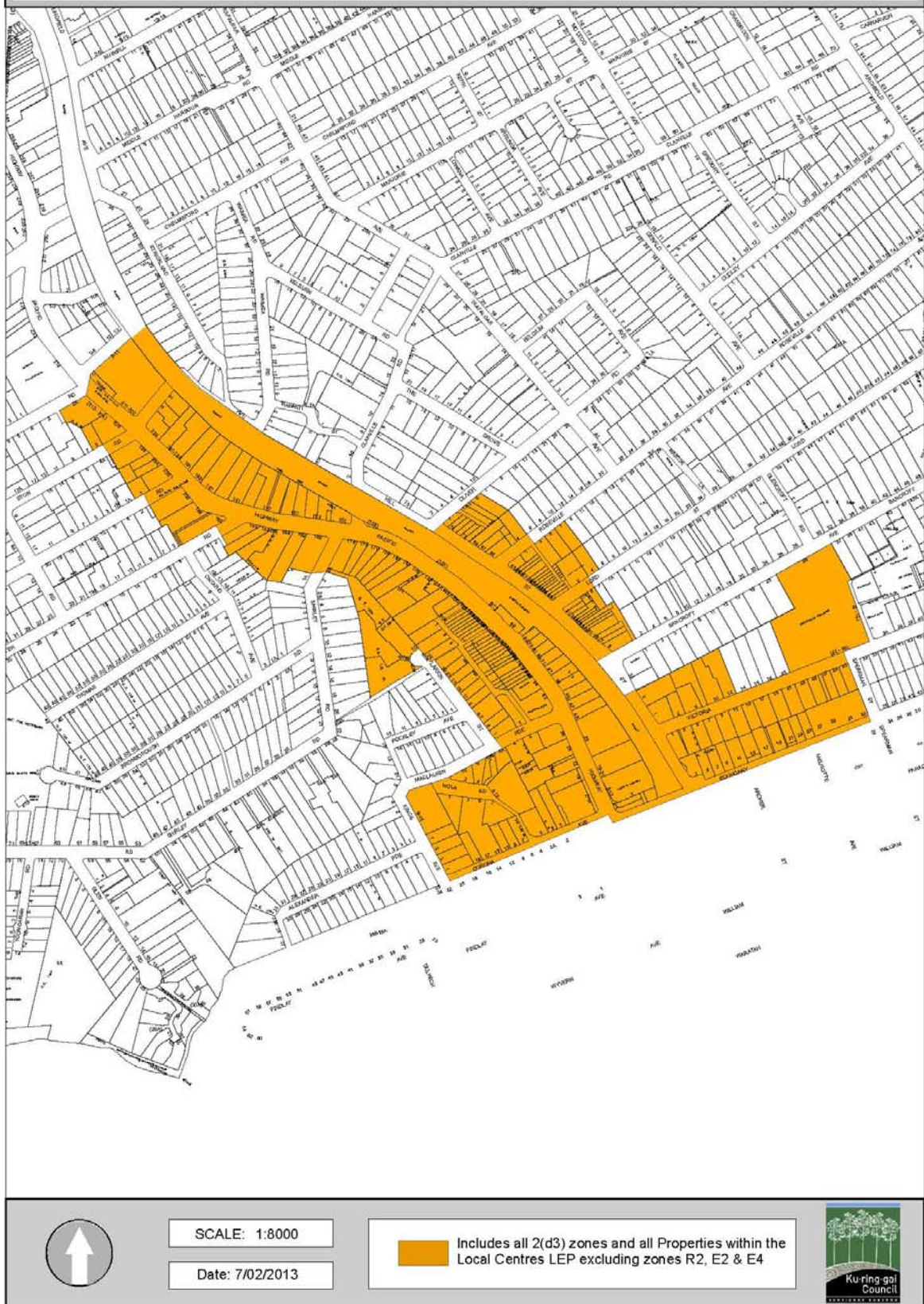
The boundaries of these catchment areas have been drawn with reference to the following criteria:

- Reference to the boundaries of the Ku-ring-gai Planning Panel and the areas that have some potential for medium to high density under the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*;
- Incorporating those areas zoned 2(d3) for medium to high density development under *Ku-ring-gai Local Environmental Plan 194* and *Ku-ring-gai Local Environmental Plan 200* which are not otherwise superseded by *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*;
- Excluding those areas which have not been up-zoned for medium to high density development or have been down-zoned to low density residential or environmental protection under the *Ku-ring-gai Local Environment Plan (Town Centres) 2010* (i.e. R2, E2 and E4 zones) from the onus to contribute to particular works to the town centres which relate specifically to the concentration of higher density development in the town centres;⁶
- Respecting the hierarchy of the town centres and neighbourhood centres;
- Respecting perceived boundaries like railway lines and major arterial roads;
- Respecting census collector district boundaries for the purposes of statistical accuracy;
- Creating logical open space catchment areas with reference to the *Open Space Acquisition Strategy 2006* and to existing physical and perceived boundaries for the expenditure of development contributions in order to meet the increased demand and the nexus requirements arising from that demand; and
- Ensuring that medium to high density development that does occur outside the town centres on key sites or under State Environmental Planning Policies is required to make its fair contribution towards the provision of Key Community Infrastructure such as additional local parkland and community facilities.

⁶ This Contributions Plan seeks to treat all new single dwellings and dual occupancy development in low density R2 zones and the equivalent(s) under the *Ku-ring-gai Planning Scheme Ordinance* in the same manner regardless of whether that development occurs inside or outside the designated town centres. The *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* initially sought to prohibit dual occupancies from the town centre areas but this clause has since been amended to allow dual occupancies.

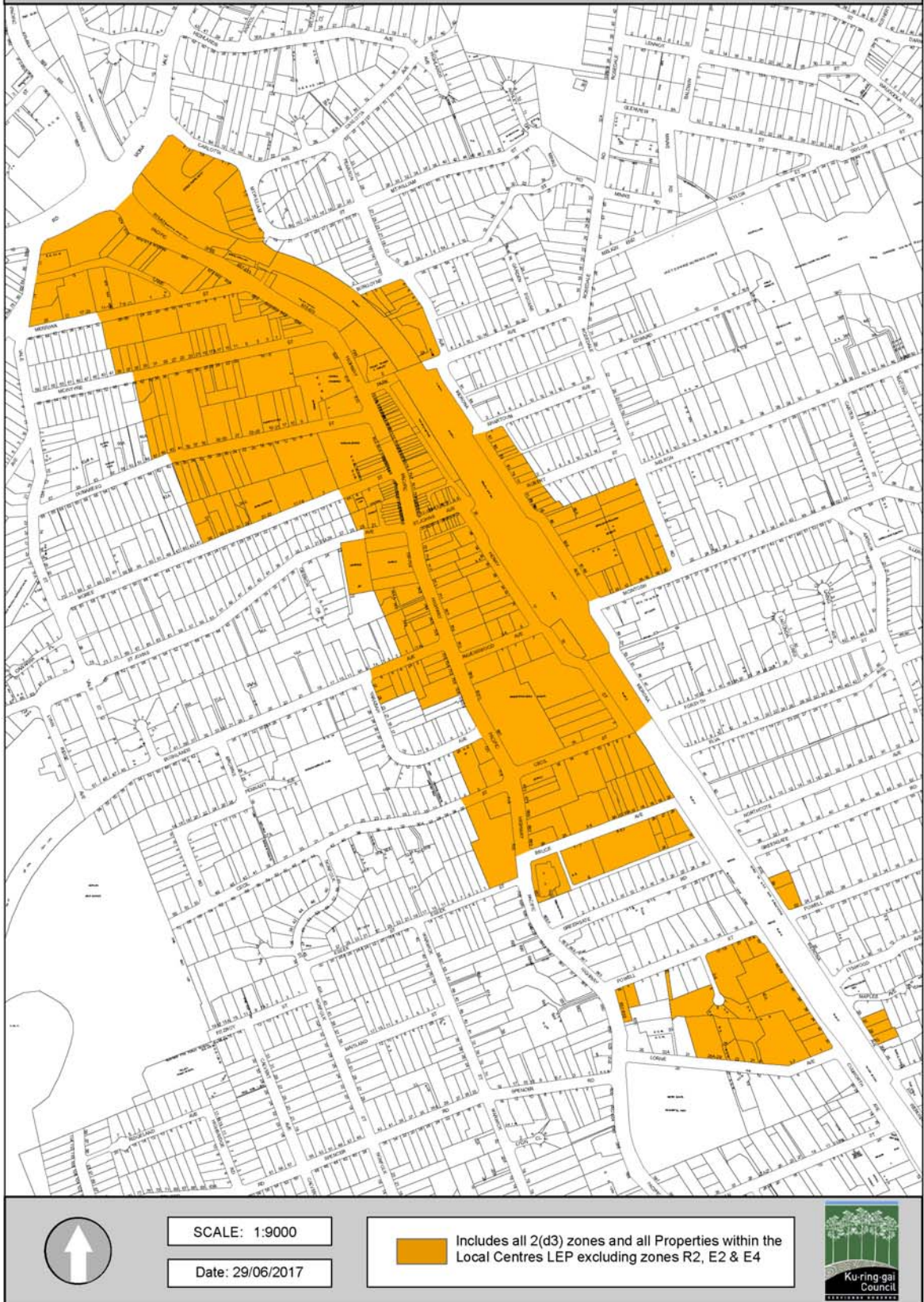


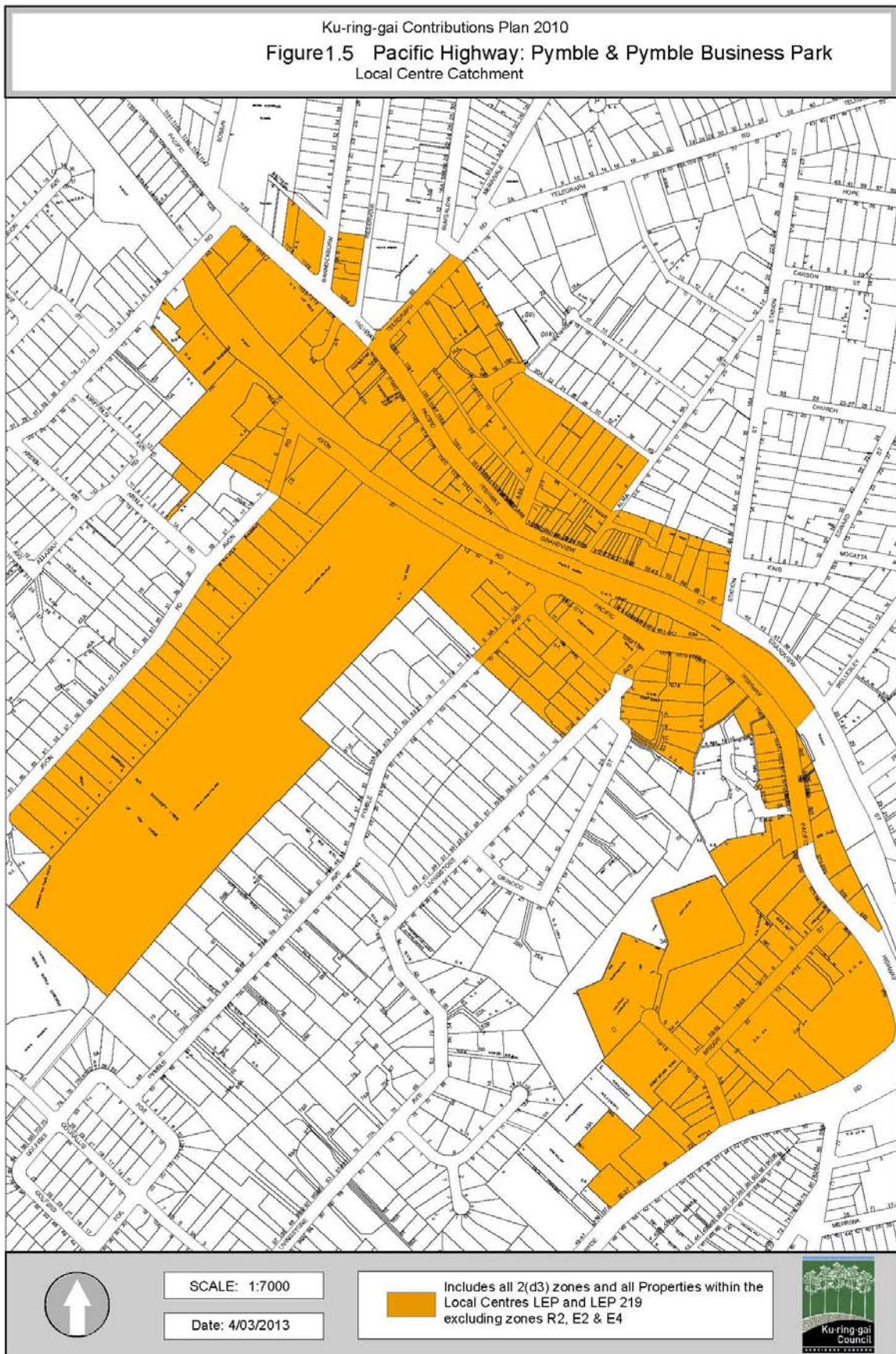
Ku-ring-gai Contributions Plan 2010
Figure 1.2 Pacific Highway: Roseville
Local Centre Catchment

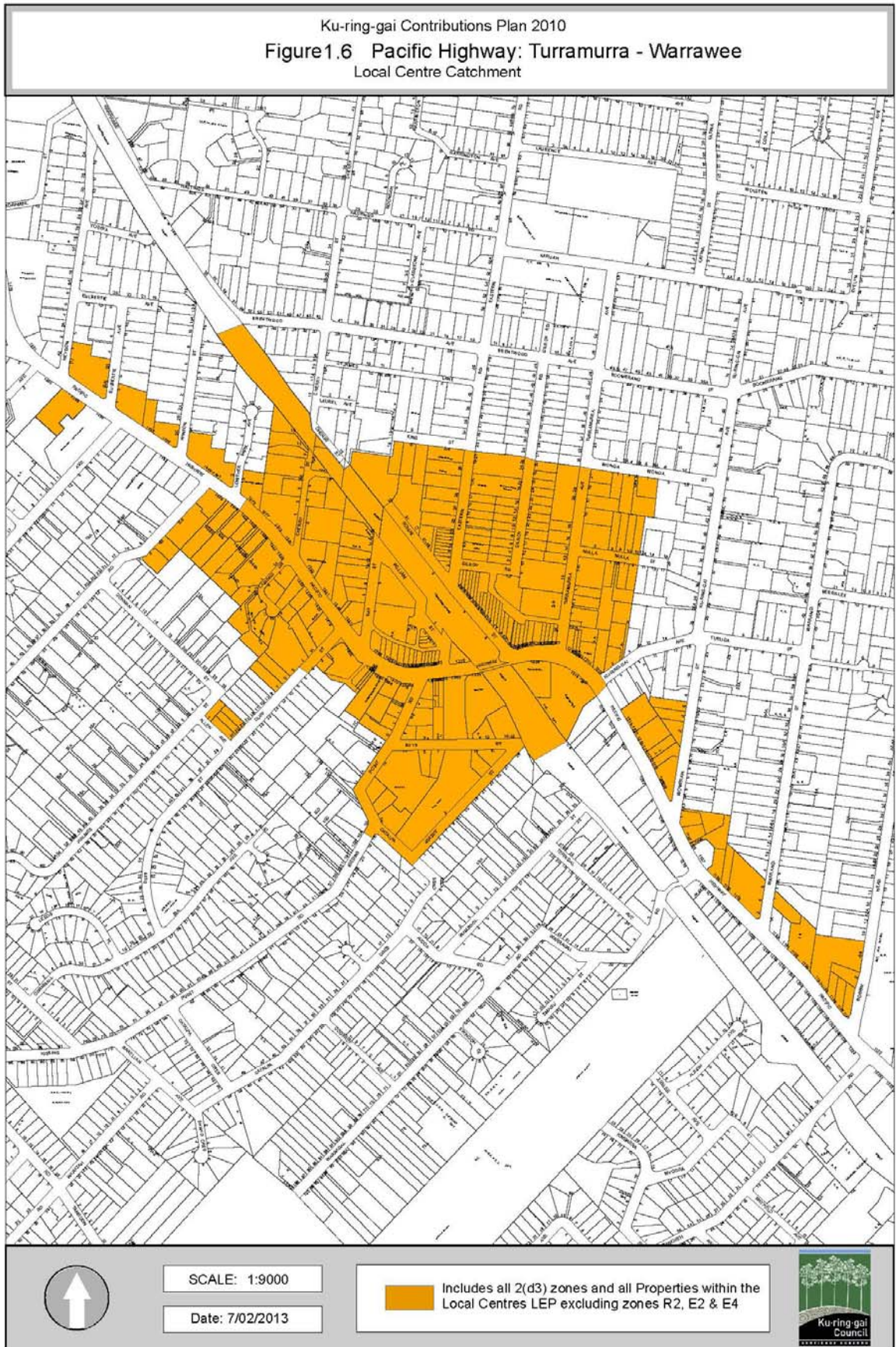




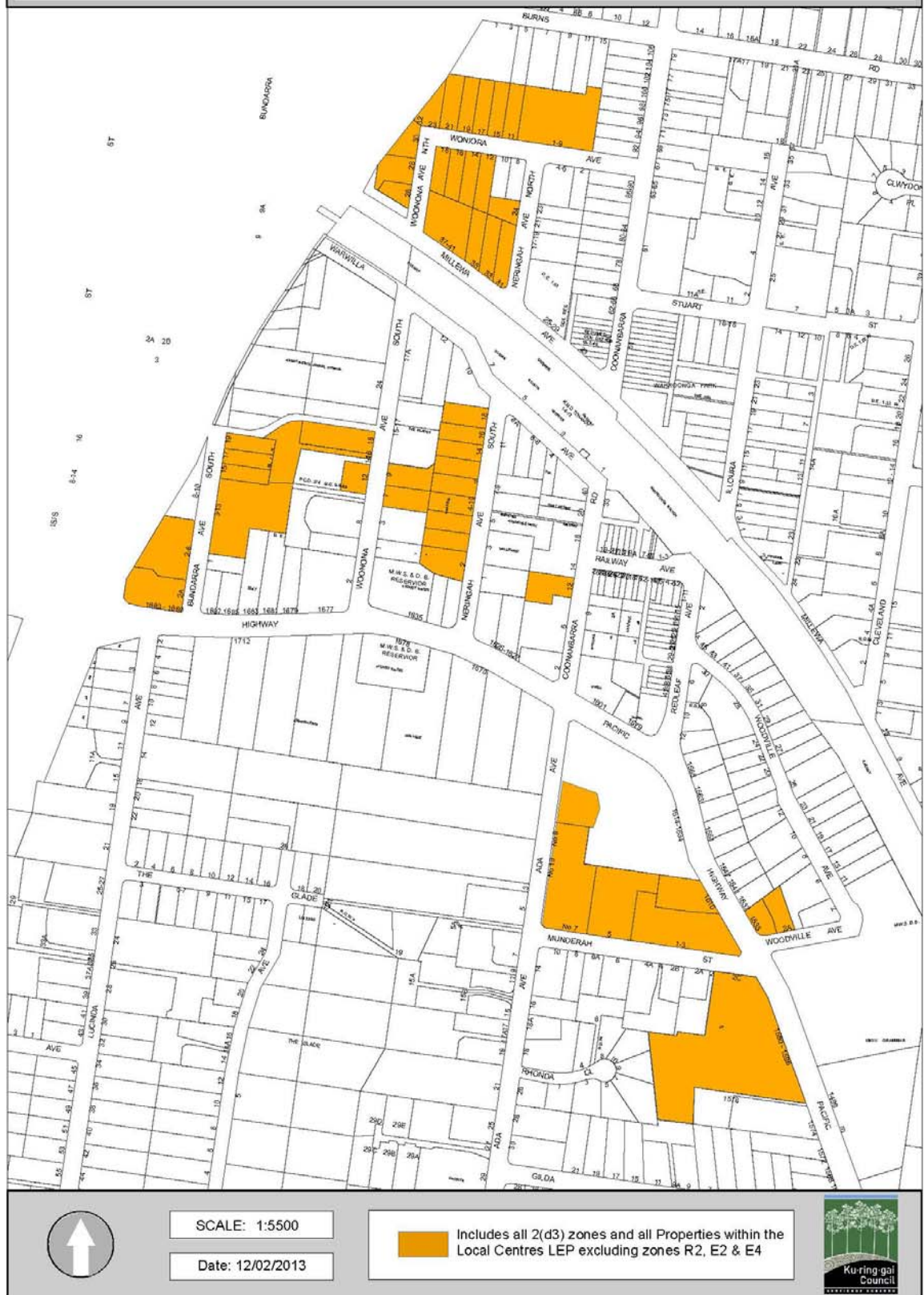
Ku-ring-gai Contributions Plan 2010
Figure 1.4 Pacific Highway: Gordon - Killara
Local Centre Catchment



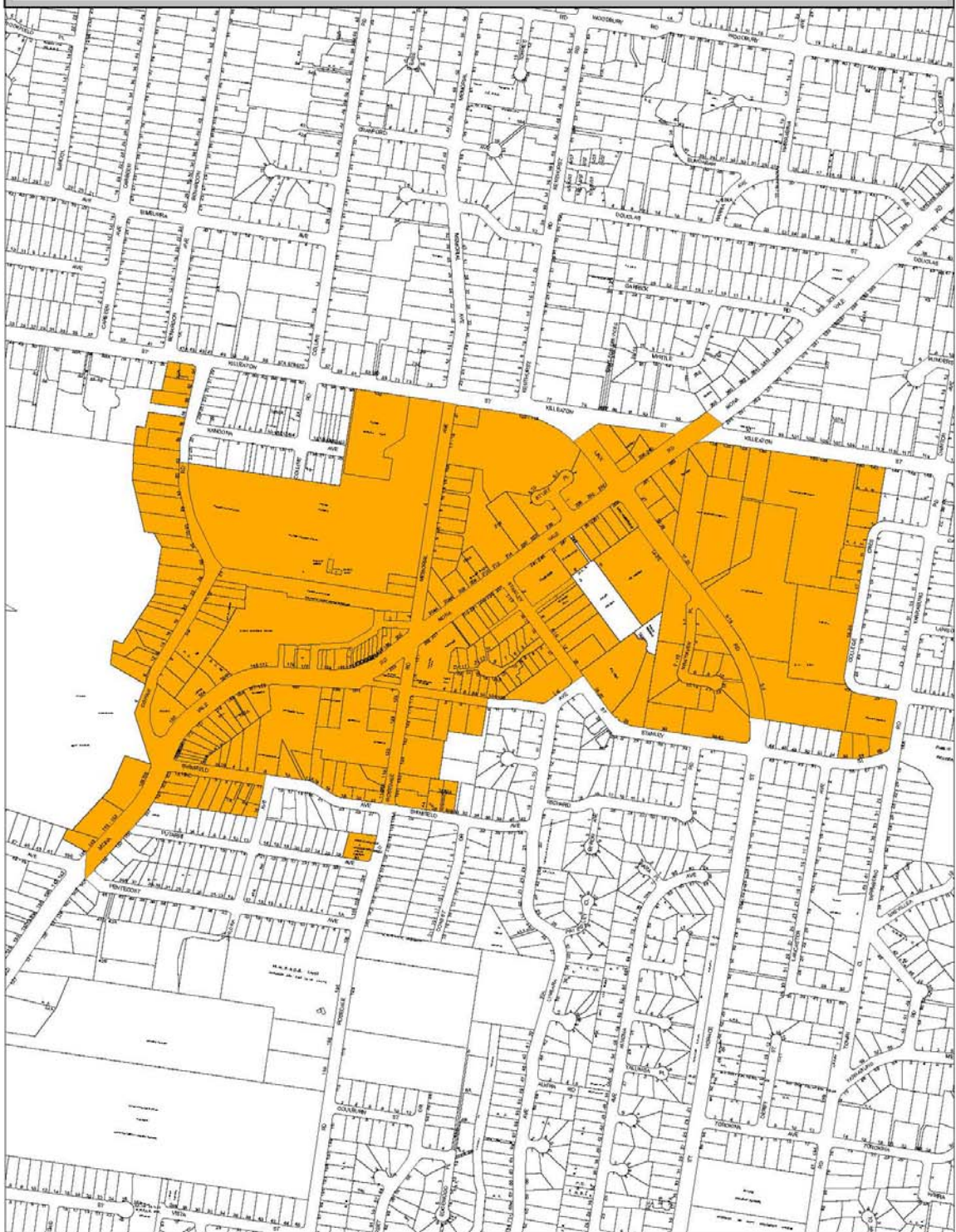




Ku-ring-gai Contributions Plan 2010
Figure 1.7 Pacific Highway: Wahroonga
Catchment



Ku-ring-gai Contributions Plan 2010
Figure 1.8 Mona Vale Road: St Ives
Local Centre Catchment



SCALE: 1:8500

Date: 7/02/2013



Includes all 2(d3) zones and all Properties within the Local Centres LEP excluding zones R2, E2 & E4



1.4 Development to which this Contributions Plan applies

This Contributions Plan applies to all development that increases the demand for the facilities and amenities for which this Contributions Plan provides.

For the purposes of this Contributions Plan, development may include subdivision, all forms of residential development including single dwelling houses, dual occupancies, villas and townhouses and multi-unit development including seniors living dwellings and non-private dwellings, increased commercial floorspace in the form of floorspace for business purposes, office, retail, industrial or other for-profit use and increased intensity of usage or employment in any such premises, or any combination of these.

The limited capacity for exemption from the obligation to pay contributions is detailed in 1.25 to 1.33.

1.5 Commencement of the Plan & Transitional Arrangements

This Contributions Plan takes effect from the date stated in the published public notice, pursuant to clause 31(4) of the *Environmental Planning and Assessment Regulation, 2000* or, if amended, the comparable clause in its successor.

This Contributions Plan was adopted by Ku-ring-gai Council at its meeting of Tuesday 23 November 2010.

This Contributions Plan officially came into force effective from Sunday 19 December 2010.

The exhibition draft of this Contributions Plan in the form in which it was exhibited was referred to the Department of Planning for information and comment prior to the finalisation of the document post-exhibition.

Contributions calculated in accordance with this Contributions Plan will be applied to all Development Applications which are assessed as having the potential to increase the demand for facilities and works provided for by this Contributions Plan and which are determined by the granting of consent after the effective date cited above with reference to the relevant catchments as indicated in the maps in 1.3 (Figures 1.1-1.8).

All previous Contributions Plans listed in 1.6 below were consequentially superseded from the date this Contributions Plan came into force.

Note: The application of this Contributions Plan after the effective date applies notwithstanding the date of lodgement of the Development Application.

1.6 Relationship to past Contributions Plans

This Contributions Plan results from a comprehensive review following the full release of the 2006 census data and the finalisation of the then draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008* by the Ku-ring-gai Planning Panel which was adopted at its meeting of 27 May 2009 and formally gazetted by the Minister for Planning as *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* on 25 May 2010.

Recent amendments to the *Environmental Planning and Assessment Act, 1979* and the Regulations thereunder (which were assented in June 2008 but which, at the time of drafting this Contributions Plans, had not yet commenced), are also incorporated where logical and feasible. It should be noted, however, that these relate primarily to terminology and structure as the relevant legislative provisions remain uncommenced as at the time of adoption.

Subject to the final note at the end of this section, this Contributions Plan supersedes the following Contributions Plans in their entirety:

Ku-ring-gai Town Centres Development Contributions Plan 2008

*Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 – Residential Development (and both subsequent amendments)*⁷

Ku-ring-gai Section 94 Contributions Plan No.1 (adopted 29 June 1993 and amended 17 November 1993)

Ku-ring-gai Section 94 Development Contributions Plan for No. 9, 9a, 11 & 15 Curagal Road Nth Turramurra (1995)

Ku-ring-gai Section 94 Development Contributions Plans for:

- *Gordon Business Centre Car Parking;*
- *Wahroonga Business Centre Car Parking; and*
- *West Lindfield Business Centre Car Parking.*

Ku-ring-gai Section 94 Contributions Plan 324-346 Mona Vale Road, St Ives “Hillcrest”

Ku-ring-gai Section 94 Contributions Plan: SEPP5 Housing 2002

Collectively, these plans are known as the predecessor plans.

The *Environmental Planning and Assessment Act* states:

“ The amendment or repeal, whether in whole or in part, of a contributions plan does not affect the previous operation of the plan or anything duly done under the plan.”⁸

Development consents which include conditions requiring the payment of development contributions levied under the predecessor contributions plans repealed by this document will continue to be acted upon and those contributions (together with any applicable inflation) will become due and payable in accordance with the wording of the related consent condition.

⁷ *Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 – Residential Development* came into force on 30 June 2004. *Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 – Residential Development – Amendment 1* came into force on 19 October 2007. *Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 – Residential Development – Amendment 2* came into force on 30 July 2008. The original 2004-2009 Contributions Plan was itself a successor to the 2000-2003 Contributions Plan.

⁸ Both Section 94EB(4) of the *Environmental Planning and Assessment Act, 1979* and the uncommenced Clause 9(4) of Schedule 1: Provisions relating to development contributions, Part 1: Community Infrastructure Contributions, of the future version of the *Environmental Planning and Assessment Act* as outlined in the *Environmental Planning and Assessment Amendment Act* contain this exact provision.

The Council will continue to expend all incoming contributions levied under the predecessor Contributions Plans for the purposes for which they were levied in accordance with the relevant legislation. It should be noted that some major works have been rolled into this Contributions Plan as they will also serve longer term population growth.

Note: The predecessor Contributions Plans are consequentially superseded by this subsequent Contributions Plan; they are not formally repealed as a distinct process. In the event this Contributions Plan fails for any reason, Ku-ring-gai Council intends to revert to the predecessor Contributions Plans until such time as a new Contributions Plan can be brought into force. The reason for this policy statement is to ensure that no resident or business is disadvantaged by any inability of Council to provide anticipated facilities due to a shortfall in contributions and that equity is maintained between all developers by ensuring all new development is required to make contributions towards such core facilities regardless of the point in time at which a consent may be determined. This policy statement is intended to obviate inadvertently conferring a pecuniary advantage on any developer based on the timing of their development to the detriment of supporting infrastructure provision in Ku-ring-gai.

1.7 Relationship to the Strategic Planning Process

This Contributions Plan supports the Local Environmental Plans and Development Control Plans of the Council which enable and guide the development that generates the demand for facilities and amenities funded, or partially funded, by this Contributions Plan. More detail on this inter-relationship is detailed in **Part C: Strategy Plans**.

This Contributions Plan is part of a suite of planning documents which will support the delivery of new development in Ku-ring-gai as its commitment to the Draft North Subregional Strategy which plans for dwelling and population growth from 2004 to 2031.

As required by the Notes to the Direction issued by the Minister for Planning to Ku-ring-gai on 31 May 2009, the Ku-ring-gai Planning Panel has also been consulted during the process of preparing and finalising this Contributions Plan to ensure the document aligns with the objectives of the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*.

1.8 Key Considerations for Development Contributions

Under the uncommenced provisions *Environmental Planning and Assessment Act* and *Regulations*, there are key considerations for any Local Government Authority proposing to levy development contributions. While these considerations are not formally required to be addressed in this manner within a Contributions Plan under the present requirements of the *Environmental Planning and Assessment Act* and *Regulations*, nothing precludes their consideration in anticipation of soon becoming law. Indeed, the principles expressed therein have always been part of the spirit and intent of the Development Contributions system and the uncommenced legislation simply underlines the requirement for more formally documented consideration within the Contributions Plan itself.

Accordingly, the following key considerations have been considered in this Contributions Plan:

- a) Can the public infrastructure that is proposed to be funded by a development contribution be provided within a reasonable time?
- b) What will be the impact of the proposed development contribution on the affordability of the proposed development?
- c) Is the proposed development contribution based on a reasonable apportionment between existing demand and new demand for public infrastructure to be created by the proposed development to which the contribution relates?
- d) Is the proposed development contribution based on a reasonable estimate of the cost of proposed public infrastructure?
- e) Are the estimates of demand for each item of public infrastructure to which the proposed development contribution relates reasonable?

These questions are addressed by this Contributions Plan in the following sections dealing respectively with the key considerations of temporal nexus (a), affordability (b), apportionment (c), cost estimates (d) and causal nexus (e). At the time of drafting this Contributions Plan, revised Practice Notes guiding the process of addressing this aspect of Contributions Plans have not been released by the Department of Planning.

1.9 Key Consideration Statement – Temporal Nexus

The timing of works under this Contributions Plan over the life of the plan has been a key consideration of the plan preparation process. This plan provides for a variety of different works. Some works, like intersection treatments, have a critical trigger point at which they must be implemented. Some, such as community facilities, are single major works which must be timed to meet need within a broader funding strategy. Some such works partially replace (as well as augment) existing facilities which reach the end of their economic life at various times over the life of this Contributions Plan⁹ which allows these facilities to be staged over the life of the Contributions Plan while continuing to provide services to the community. Other works, such as open space acquisition and embellishment, are pro rata per capita contributions which can be effected in a rolling works programme continuously over the life of the Contributions Plan targeted to areas of development activity.

The rate of receipt of income from development contributions is subject to some uncertainty in established areas where the rate of development and the economic cycle is difficult to predict particularly over the longer term. The life of this Contributions Plan to 2031 will cover several economic cycles from period of limited activity to period of intense development activity. Ku-ring-gai Council will continue to

⁹ Many of Ku-ring-gai's existing community facilities (including at least two of the libraries) cannot be physically extended due to the age, design and/or the inappropriate location of the existing facility. Where whole new facilities are required, these are strictly apportioned between the existing demand and the new demand with Council providing a significant proportional co-contribution representing the full apportionment on behalf of the existing community. Other community facilities are levied pro rata per capita to maintain current rates of floorspace provision. These are apportioned differently. Specific facilities are addressed in Part C: Strategy in this Contributions Plan.

monitor the rate of development and contributions income and manage its rolling works programme through its Long Term Financial Plan.¹⁰

Ku-ring-gai Council has integrated this Contribution Plan into its Long Term Financial Plan which maintains a twenty year horizon into the future. The Long Term Financial Plan identifies funding commitments for Council's committed co-contribution for apportioned facilities and indicates the proposed sources of funding for that commitment. This financial management process ensures that sufficient general revenue is saved each year for future commitments.

It is acknowledged that some of the major works in this Contributions Plan require a substantial co-contribution from council on behalf of the existing population and that this co-contribution will, ultimately, only be fully funded by the strategic disposal of some current Council land-holdings – or the commitment of these assets to a future development at full market benefit. Ku-ring-gai Council is in the fortunate position of being a key property holder in the town centres which are targeted for the major concentrations of new development where augmented community facilities and new open space assets will be most keenly required and most logically centrally located.

It is not possible at the time of finalising this Contributions Plan to identify the subject properties because the consideration of these assets for strategic disposal must be preceded by a comprehensive reclassification process. While Council cannot pre-empt the outcome of any such process in this document, it has committed to its formal commencement following the gazettal of *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*. Preliminary investigations as part of the preparation process of *Ku-ring-gai Town Centres Development Contributions Plan 2008* (an immediate predecessor of this plan) suggested that there was considerable scope in these properties for meeting a fair proportion of the co-contribution required through to 2031.

The proposed works programme under this Contributions Plan will be prioritised and staged to match the rate of development and the generation of additional demand. Works have generally been assigned the following timing descriptions:

“S” being “Short term” means within five years of the date of adoption of this Contributions Plan.

“M” being “Medium term” means between five and ten years from the date of adoption of this Contributions Plan.

“I” being “Intermediate term” means between ten and fifteen years from the date of adoption of this Contributions Plan.

“L” being “Longer term” means more than fifteen years from the date of adoption of this Contributions Plan.

“E” being “External” defines a work that is expected to be provided either wholly or partly in kind as part of a development and its timing will therefore be determined by the timing of that development. Council has no direct control over when any given development might proceed and therefore cannot determine the likely timing of this work.

¹⁰ Ku-ring-gai Council has established and manages a twenty year Long Term Financial Plan which is reported to Council on a quarterly basis.

“R” identifies recently completed works which have been wholly or partly forward-funded by Council to support the current redevelopment phase that is underway in the Ku-ring-gai Local Government Area and are under recoupment.

It should be noted that some works defined as ‘External’ have also been allocated a term by which Council would prefer to see the work implemented beyond which Council is prepared to investigate options for negotiating with the property owner to bring forward the work.

Generally works have only been assigned intermediate and longer term estimated start dates where they are secondary to works which may already be providing a similar service, are replacements as well as augmentation for such facilities or where peak demand for the facility or service will not be achieved until later in the development period covered by this Contributions Plan. It should be noted that development rates are regularly monitored and works could be brought forward from these estimates if the rate of development and the cash-flow permitted.

In the case of open space acquisition for new parks individual items have not been designated a specific acquisition time. This is because Ku-ring-gai Council prefers an opportunistic approach rather than compulsory acquisition. Designating a specific target could inhibit council’s ability to consider each situation on its own merits. It must also be noted that, in the case of land expected to be zoned for new open space under the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*, that a property owner could, if they so wished, serve notice on Council to acquire that land at any time irrespective of any later timing Council may anticipate. Temporal and geographic nexus for new open space will be maintained by a mixed rolling works programme of both zoned and opportunistic acquisitions in areas of development activity. Ku-ring-gai Council will continue to monitor the location and scale of development in the Local Government Area and target acquisitions to areas of high activity and demand.

1.10 Key Consideration Statement – Affordability

1.10.1 Overview

There are two facets to affordability: the economic viability of development and the affordability of the finished product to the target market.

The first key aspect is the economic viability of development. The purchase price of the developable land is a key contributor to the overall cost of development. Additionally, all development costs from demolition and site clearance, construction and marketing costs contribute to the total project cost. In this context, development contributions are also a component of the total project cost of development. The other key aspect is the affordability of the finished product. Is the outcome of the development new housing that is affordable in the relevant market? These two facets are considered separately below.

Overall, contribution rates in Ku-ring-gai might appear by comparison to be higher than other established area councils. The prime reason for high contribution rates is the cost of land. Ku-ring-gai Council, to attempt to maintain reasonable per capita rates of local open space and to improve traffic and pedestrian flow by providing additional through roads, must acquire land at a fair market value (or an equivalent benefit such as transferable floorspace where this can be built into the relevant

controls). Land acquisition costs for these two types of essential facilities make up a substantial proportion of the total contribution rates.

Development Contributions for a wide variety of purposes have been levied on development in established areas since the inception of the *Environmental Planning and Assessment Act, 1979*. After thirty years, they are a well-established component of the total cost of development and routinely taken into consideration by prospective developers prior to committing to any development. Developers will always sell their product at the best price the market will pay.

1.10.2 Economic Viability of Development

As part of the development of the planning controls for the six Town Centres where the majority of development will be located, Ku-ring-gai Council commissioned extensive professional economic viability testing of key sites affected by the Town Centres Planning including the Contributions Plans.

Additionally, as part of the process of seeking an exemption from a s94E Direction which would, but for the exemption, have limited contributions under the predecessor Contributions Plans to a maximum of \$20,000 per dwelling, Ku-ring-gai Council also commissioned an independent economic analysis of the impact of contributions on new proposals in the climate of economic downturn that prevailed in early 2009.

Sphere Property Corporation¹¹ concluded that:-

- Contributions are currently a small percentage of the total project cost¹² (in the order of 1.1-4.1% depending on whether the development is mixed use or 100% residential);
- The reduction in contributions would not achieve a significant reduction in the proportion of contributions to the total project cost with an average reduction of 0.5%;
- As such they are not a critical deciding factor in the decision to proceed with development. There are other factors of greater influence;
- There is likely to be a relatively initial small benefit to development in the short-term by allowing a reduction in prices in the order of 0.4-1.9%. However in some cases a price reduction would be unlikely;
- In the longer term, such reductions would be likely to be withheld from the market as developer profit;
- The impact of the loss of works provided by the contributions in terms of amenity also impact on the attractiveness of the product for buyers and a negative impact on the potential for future development;
- There are other mechanisms (such as reducing required on-site parking) which would have a more marked effect on the total project cost of the development; and
- Reducing contributions to \$20,000 for larger apartments could change the trend in unit mix from predominately two bedroom apartments towards larger apartments which are typically most expensive to purchase.

¹¹ *Ku-ring-gai Council, \$20,000 Section 94 Levy Limit – Report of the Impacts on Property Development Economics; Sphere Property Corporation, John Harston, February 2009.*

¹² **Note:** the total project cost in this context is a complete project cost inclusive of such components as land costs, profit et al. It should not be interpreted as equivalent to the construction cost that is used for the purposes of calculating a percentage levy.

In many areas, but particularly in Ku-ring-gai, purchasers are orientated towards the total package provided by the apartment dwelling. This package includes the environment beyond the apartment building itself and includes the accessibility of public transport, the accessibility and amenity of the shopping area and availability of other services, community facilities and public spaces. A post-occupancy survey conducted in late 2008 for the *Community Facilities Strategy*¹³ suggested that many recent purchasers may be down-sizing from a larger dwelling in the area.

The amenity of the public domain, pedestrian and vehicular accessibility and community facilities that are offered beyond the development site are provided by Ku-ring-gai Council utilising development contributions. These works are duly apportioned where required but development contributions still make up a key component of the total project budget in the absence of which the works programme would need to be delayed or curtailed or both. Therefore these facilities and the urban amenity so provided are directly related to continued capacity to levy the appropriate contributions. The present and future viability of new development is inter-related to the provision of this amenity.

As a result of such extensive research Ku-ring-gai Council believes the contributions required under this Contributions Plan to be reasonable and affordable. The on-going viability of the contributions system will be monitored as part of the management of this Contributions Plan.

It is acknowledged that this Contributions Plan is being introduced to replace two current contributions plans at a time of some economic uncertainty following the Global Financial Crisis however, while there has been a reduction in the amount of development instigated in the short term, this cycle will reach its natural conclusion and there are indications that it has already begun to turn. This Contributions Plan must be in place in anticipation of that new development particularly noting that development potential through to 2031 is now released in gazetted LEPs. Every effort has been made to find savings where possible and to reduce the overall contribution rate both post exhibition in response to submissions and in relation to the current 'grandfathered' contributions plans which will be consequentially superseded by this Contributions Plan, while still supporting intensive, concentrated redevelopment.

Factors supporting a future upswing in development include a continuing undersupply of dwellings in Sydney leading to a tight rental market and relatively high rents. These in turns encourage property investment. The trend may be further supported by an on-going perception that bricks and mortar are a better long-term investment than shares. There is also continued scope for investors to purchase an investment property with a view to down-sizing at some point in the future. It is important to note that both present and future down-sizers – 'last-home buyers' – are purchasers to whom the immediate urban environment of the new dwelling is an important factor in the decision to invest.

1.10.3 Housing Affordability

The Upper North Shore housing market is traditionally one of the least affordable in Sydney¹⁴. The price of apartments in the Ku-ring-gai Local Government Area, as for everywhere else in Sydney, is determined by what the market will bear. It is a function

¹³ Detailed statistical outcomes from this survey are further discussed in Part C: Strategy Plans.

¹⁴ The median price of all strata-titled dwellings in Ku-ring-gai exceeds \$500,000 and is relatively high compared to many other areas of Sydney; Housing NSW Housing Analysis and Research: Rent and Sales Reports (various).

of many factors including supply and demand, the health of the investor market and rental vacancies, the availability or otherwise of mechanisms to assist buyers into the market, the availability of developable land, the cost and availability of materials and the economic cycle.

Continuing to support future development by improving the environment of the development including improvements to the amenity and vitality of the town centres, is the mechanism that will provide additional housing as well as housing choice. The act of providing a greater variety of housing choice – specifically smaller dwellings in the form of units – contributes significantly to the provision of more affordable housing.

The development that is attracted to Ku-ring-gai will, in turn, provide a greater supply of housing and a wider variety of housing choice by facilitating down-sizing while supporting ageing within the area. Both housing supply and housing choice are major contributors to improved housing affordability.

It is also noted that, to the extent that contributions may influence unit mix, artificially reducing contributions for larger apartments could have the effect of encouraging the development of a greater number of larger apartments which are, typically, more expensive. This would, in turn, have the opposite effect to that otherwise envisaged on the variety of housing choice and affordability in the Ku-ring-gai Local Government Area.

In regard to the sub-market of strata sales in Ku-ring-gai Local Government Area, strata sales over the past two years were examined by referencing data from the Quarterly Publication: Rent and Sales Report and incorporated in **Figure 1.9** below¹⁵. In summary, during 2009, all strata housing stock across the price scales appeared to be affected by the global economic slow-down and a general short-term over-supply of dwelling stock arising from intense building activity in 2006-2008.

While the median price of all strata residential properties in Ku-ring-gai had fallen in recent months, the latest figures are potentially indicative of some recovery which, if sustained, is likely to absorb the short-term over-supply and encourage developers and investors back into the market. Importantly for housing affordability, only first quartile price is in the vicinity of \$500,000.¹⁶

The latest figures indicate that the average unit price shows signs of recovery, however the average price has, in general, showed the greatest fluctuations over time depending on the product on the market and the number of sales in each quartile. It should be noted that a relatively small number of higher priced sales can significantly affect the average figure. It is, therefore, too early to analyse whether this is indicative of the beginnings of recovery or reflective of external influences.

The present overall trend, showing stability or rises across the quartiles, median and mean, is suggestive of a correcting and stabilising market in strata dwellings – however change in a single quarter should be regarded with some caution. Indications in previous quarters of a shift away from luxury penthouse-type units and larger townhouses towards a market that is more affordable to a broader range of potential purchasers may also be reflective of a maturing and stabilising of the development

¹⁵ Housing NSW Housing Analysis and Research: Rent and Sales Reports No. 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91 & 92.

¹⁶ Housing NSW Housing Analysis and Research: Rent and Sales Reports No. 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91 & 92.

market in Ku-ring-gai to produce a mix of unit sizes and prices with the capacity to appeal to a broader market. Price variations at the luxury unit/townhouse end of the market (3rd quartile) are generally more volatile as there is inevitably a more limited pool of buyers for this type of strata purchase.¹⁷

Figure 1.9: Strata Sales in Ku-ring-gai

Reporting Quarter	1 st Quartile	Median	3 rd Quartile	Mean
March 2010	\$578,000	\$655,000	\$833,000	\$720,000
December 2009	\$527,000	\$614,000	\$796,000	\$673,000
September 2009	\$525,000	\$616,000	\$750,000	\$651,000
June 2009 ¹⁸	\$510,000	\$610,000	\$764,000	\$648,000
March 2009	\$485,000	\$540,000	\$663,000	\$579,000
December 2008	\$470,000	\$585,000	\$801,000	\$666,000
September 2008	\$466,000	\$588,000	\$735,000	\$641,000
June 2008	\$490,000	\$610,000	\$834,000	\$703,000
March 2008	\$483,000	\$610,000	\$750,000	\$637,000
December 2007	\$490,000	\$580,000	\$780,000	\$655,000
September 2007	\$455,000	\$545,000	\$730,000	\$613,000
June 2007	\$445,000	\$620,000	\$758,000	\$619,000
March 2007	\$415,000	\$528,000	\$650,000	\$540,000

As of March 2009, there had been further falls in all unit prices with the exception of the first quartile – or more affordable strata properties – which continued to rise slowly. The June 2009 figures show some recovery flowing through to median and third quartile prices. The September figures show these rises stabilising. While the December figures show rises in the 3rd quartile flowing through to the mean, it has been previously noted that these figures can be distorted by relatively few high-end sales. The December 2009 figures indicate stability in the 1st quartile and median sales prices. The latest figures, relating to March 2010, show strong evidence of recovery in the unit market arguably relating to a take-up of the over-supply developed prior to the Global Financial Crisis.

Figure 1.9 demonstrates in the first quartile figures that there are affordable units under \$600,000 in Ku-ring-gai many of which have been developed under the contribution rates that were the subject of Ku-ring-gai Council's appeal to the Contributions Review Panel. The median price indicates that, in fact, a significant proportion of Ku-ring-gai strata sales are at this lower end of the market. This is balanced by a smaller number of higher priced units, in some cases significantly higher-priced (over \$1 million), such as larger units on the top floor of a development which often command valuable views. This factor increases the overall average (or mean) price above the median.

With respect to this picture of the Ku-ring-gai sub-market, it should be noted that the majority of the larger developments contain a mix of unit sizes and unit prices with units overlooking the railway line or Pacific Highway or facing south selling for less than units facing north or overlooking parkland or tree-lined avenues. Larger units, top floor units and units built on the ridgeline and commanding district views also inevitably command higher prices. Significant numbers of Ku-ring-gai's new

¹⁷ It should be noted that strata unit prices are fluctuating notwithstanding the maintenance of development contributions over that period.

¹⁸ These were the most up-to-date figures at the time of the final drafting stage of this Contributions Plan. The more recent figures were published in the Rent and Sales Report No. 90 on 15 February 2010, No.91 on 18 May 2010 and No 92 on 16 August 2010 and incorporated into this table post-exhibition.

developments are purposefully designed and located to maximise this variety within a single development, balancing and managing risk. Compromising the immediate amenity of the town centre in which the development is situated could prove to be short-sighted by adversely affecting the viability of these developments as a whole by reducing the capacity to market particularly the higher priced units.

Ku-ring-gai Council has, in this Contributions Plan, supported the provision of Affordable Housing without compromising the outcome of well-designed town centres and the provision of essential physical and community infrastructure by:

- Ensuring that contributions for bedsits and studios, one bedroom units and SEPP5 developments are less than \$20,000 per unit;
- Providing a sliding scale of contributions for larger units based on occupancy rates to ensure that, to the extent that development contributions may influence unit design, more one bedroom units, bedsits and SEPP5 developments will be provided than larger units which typically sell for much higher prices;
- Having regard to *State Environmental Planning Policy (Affordable Rental Housing) 2009*;
- Introducing the capacity for some types of affordable housing for vulnerable groups to suspend or discount the development contributions payable;
- Exempting secondary dwellings (as distinct from the larger scale dual occupancies) from the obligation to pay development contributions facilitating the provision of affordable housing for extended family;
- Limiting the top contribution rate to 3+ bedrooms (rather than 4+) for dwelling houses as well as dwelling units. It is noted that larger dwelling houses have a capacity to support inter-generational housing for older parents and/or grown-up children, thereby also supporting affordable housing and supporting a range of age groups within Ku-ring-gai;
- Recognising that the cost of land is a significant component of the contribution rate and reducing per capita rates for additional local open space acquisition to levels substantially below currently prevailing levels of local open space provision and significantly below current overall open space provision levels¹⁹;
- Where possible, seeking to reduce land acquisition costs for new roads identified under the then draft *Ku-ring-gai Development Control Plan (Town Centres) 2009* by facilitating a system documented in the then draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008* of transferable floor space thus reducing the residual value of land rendered devoid of its development potential. It should be noted that this method was used extensively in the adopted *Ku-ring-gai Town Centres Development Contributions Plan 2008* however the subsequent zoning of these lands SP2 for infrastructure provision by the NSW State Government, effectively inhibits this pro-active option for reducing the cost of the targeted land. This Contributions Plan, therefore, is required to include approximately \$25M worth of *additional* land acquisition costs for new roads²⁰;
- Introducing the concept of urban design benefits to the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* to facilitate some streetscape improvements works that are directly related to one particular development to be integrated and delivered in the course of that development enabling these works to be deleted from the Contributions Plan. It is considered preferable where such

¹⁹ This policy guarantees that per capita rates of open space provision will fall over time. The impact over time of open space provision below the current per capita rates is further detailed in Part C: Strategy Plans.

²⁰ This zoning is the chief reason for an increase in commercial contribution rates. Ku-ring-gai is continuing to work with the Department of Planning to address this consequence of zoning land for infrastructure in an LEP as compared to targeting it in a DCP.

works relate most directly to one particular development, usually a commercial or mixed use development in the heart of the centre, for that development to incorporate those works rather than utilising a Contributions Plan which would require all development large and small to contribute. It should be noted that the original scope of the urban design benefits clause as exhibited was intended to also provide for works in the public domain that clearly provide an additional benefit to one particular large development. This methodology has worked successfully in other centres where the developer recognises a direct benefit to the development from the works. This situation gives rise to an opportunity for benefit to both the developer and the community. Subsequent discussions with the NSW Government however made clear that their view was that such works belonged in a Contributions Plan which requires all development in the centre to collectively contribute. As such, this innovative and pro-active approach for reducing the costs attributable in this Contributions Plan was also unable to proceed as the original vision had intended;

- Undertaking to research and prepare an Affordable Housing Strategy including investigating any future scope for key worker housing; and
- Undertaking to further investigate potential for reductions in the required on-site car parking in developments located proximate to public transport noting that the cost of excavation to provide underground parking is a significant cost.

1.11 Key Consideration Statement – Apportionment

Ku-ring-gai Local Government Area is currently experiencing a significant increase in development predominantly concentrated in key town centres along the railway line, the Pacific Highway and in the satellite centre of St Ives on Mona Vale Road.

Development of this scale represents a significant departure in housing form from the prevailing development. A comprehensive works programme is required to facilitate and support development of this scale, mitigating its impact and maintaining Ku-ring-gai as a desirable place to live. The works in this Contributions Plan are integral to the on-going success of this development phase by ensuring that there is a continued demand for new dwellings by maintaining the amenity of Ku-ring-gai.

As with any established area experiencing significant redevelopment pressure, there are three key types of apportionment in this Contributions Plan.

Firstly, there are works within this plan which are wholly or partially provided for the population as a whole – both existing and future – which are duly apportioned to ensure that the incoming population only pays its fair share. In these cases, Council bears a significant proportion of the cost as a co-contribution on behalf of the existing population. The proposed new/augmented libraries, community facilities and recreation facilities such as the West Pymble Aquatic Centre are key examples.

Secondly, there are works within this plan which seek to replicate for the new population, the baseline per capita rates of provision which exist for the current population. The acquisition and embellishment of new local open space is the chief example. Generally, works which simply seek to maintain the status quo on a pro rata per capita basis are attributed wholly to the incoming population.

Thirdly, there are works which are required specifically to facilitate and support the intensive redevelopment that is occurring around the town centres. These works would neither be required nor undertaken but for the demand caused directly by this

new development. These works provide direct benefit to this new development, support the quality of the urban environment and, by so doing, facilitate and support the future viability of further development. Such works include works which facilitate accessibility – both pedestrian and vehicular – and some improvements to the public domain required to support the on-going viability of development in Ku-ring-gai. Generally, works which are required solely as a direct result of the intense redevelopment expected in the current development phase, which would not be undertaken but for this development, are fairly and reasonably wholly attributed to the incoming development.

Only where there is a clear demonstrable benefit beyond maintaining the status quo is it reasonable to apportion works. It is unreasonable to require the existing population to effectively subsidise new development through their rates. It is on this principle that the capacity for developments to contribute their fair share to both community infrastructure as well as physical infrastructure was established in 1979 at the inception of the *Environmental Planning and Assessment Act* and refined on an on-going basis over the ensuing thirty years.

The Strategy Chapters provide further detail on apportionment for specific works under this Contributions Plan.

The apportionment factor between the existing and the new residential population is 5:1. This means that the population will increase by approximately 20% over the population that existed at the time this development phase began. It means that the total estimated end population as at 2031, 16.7% will be the new, incoming population from the base date of the 2006 census. It should be noted, however, that virtually all this growth will be concentrated in less than 10% of the Local Government Area, ensuring that the concentration of change in these areas will be intense.

Lastly, there are particular town centre orientated works relating specifically to vehicular circulation and access and the interaction between vehicular and pedestrian traffic that arise as a direct result of the intensive development in these town centres. These are apportioned between residential and commercial development based on traffic generation by land use. The degree of apportionment is also clarified in the Strategy Chapters. Within this apportionment, some intersection works are discounted because the end result of the work will provide a marginal net additional benefit beyond the maintenance of the pre-development level of service.

1.12 Key Consideration Statement – Cost Estimates

Ku-ring-gai Council's approach to cost estimates is to seek professional estimates of the cost of undertaking particular works from time to time at key points in the process and to utilise publicly available indices and references to provide an interim estimate if required. Initial cost estimates prepared for the purposes of this Contributions Plan are refined prior to instigation of the implementation process.

Works to the Town Centres including new streets, civic spaces and public domain works were initially costed by Page Kirkland (Quantity Surveyors) for the *Ku-ring-gai Town Centres Development Contributions Plan 2008*. These cost estimates were updated by Page Kirkland in September 2009 with reference to the draft *Ku-ring-gai Town Centres Public Domain Plan 2009* by Hassell Ltd and Jane Irwin Landscape Architecture. The preparation of the draft *Ku-ring-gai Town Centres Public Domain Plan 2009* was itself supported by an Internal Project Reference Group which drew on

the expertise of all departments in the fields of the delivery and management of all aspects of the public domain.

Cost estimates of works to the West Pymble Aquatic Centre were refined for this Contributions Plan following the preparation of detailed designs for the project by Architects: Suters Prior and Cheney and have been costed by Quantity Surveyors.

Cost estimates for specific community facilities were initially assessed and provided by Page Kirkland (Quantity Surveyors) for *Ku-ring-gai Town Centres Development Contributions Plan 2008* and updated in 2009 for incorporation into this Contributions Plan. Cost estimates for the Gordon Facility were based on preliminary designs provided by and costed by two potential design firms. The costs for community facilities will be further refined after sufficient development has occurred to justify the instigation of a follow-up post-occupancy survey and the commencement of more detailed design.

Estimates for land acquisition are regularly updated and, for this review and consolidation of the two predecessor Contributions Plans, were researched and presented by HillPDA in February 2009.

Cost estimates for works to existing parks and full delivery costs for new parks were prepared by an internal panel of experts utilising recent works experience and with reference to *The Landscape Contractors Association of NSW: Guideline Schedule of Rates for Landscape Works*. Page Kirkland peer reviewed this generic per square rate and supported the quantum as representative of the real cost of embellishment of new parks in Ku-ring-gai, the majority of which will be provided in the vicinity of the urban town centres, many on sloping sites.

Ku-ring-gai Council believes these various approaches, given the variety of Key Community Infrastructure and the varying stages of delivery involved through to at least 2031, to be reasonable. It is impractical to require more detailed cost estimates for generic facilities such as a multi-purpose facility until later post-occupancy surveys determine the precise mix of uses – and users – required to be accommodated in that building. Such a requirement would lead to an inevitable impost on the administration and management component of Contributions Plans without adding significant value at the early stages of planning.

1.13 Key Consideration Statement – Causal Nexus

Integrated planning for growth centred on Ku-ring-gai's Town Centres has been underway for many years. Each aspect of the Key Community Infrastructure sought in this Contributions Plan has been the subject of extensive studies over a period of three years of planning. Reference to **Part D: Dictionary and References** underlines the nature and scope of this extensive research.

Each aspect of Key Community Infrastructure is different in terms of the manner of determining the demand and the reasonable manner of addressing that demand. In this Contributions Plan, under the relevant Strategy Chapter Heading, nexus for each category of Key Community Infrastructure – and, indeed sub-category – is demonstrated in individual detail. Each chapter also contains a Statement of Reasonableness at the conclusion to that chapter.

It is a challenging task to summarise the reasonableness of Ku-ring-gai Council's approach to such a range of Key Community Infrastructure in a single section. The key aspects of Ku-ring-gai approach to the task are, instead, summarised as follows with more detailed nexus arguments appearing within the Strategy Chapters:

- ✓ Analysing the existing per capita rates of provision of particular facilities such as local parks and local community facilities, to cost the replication of such facilities and to discount that provision in order to maintain a reasonable contribution rate while minimising the cumulative impact on the present population.
- ✓ Determining the minimum requirements for works to key intersections in order to maintain current traffic movements and flow despite the anticipated increase in traffic as ascertained by commissioned traffic studies.
- ✓ Identifying key facilities, the demand for which is created equally by the current and the new population that will benefit that total end population in 2031 as a whole and to apportion that cost fairly across the whole population thereby ensuring that new development contributes only its fair share and that Council bears the fair co-contribution on behalf of the existing population.
- ✓ Undertaking the first post-occupancy survey of development that commenced in late 2004 and largely inhabited after the 2006 census to identify emergent demands and demography and to resolve to undertake further post-occupancy surveys as required.
- ✓ Undertaking the drafting of this revision of the two immediate predecessor 'grandfathered' contributions plans as part of a suite of documents supporting intensive redevelopment in and around the town centres.

Ku-ring-gai Council believes its approach to be reasonable.

1.14 Direct Development Contributions and Indirect Levies

The Report into the First Tranche of Councils²¹ assessed by the Contributions Review Panel, of which Ku-ring-gai Council was one, recommended that councils within existing urban areas give consideration to a section 94A (indirect levy) approach due, primarily, to the difficulties of determining the rate, location and type of future development.

The Ku-ring-gai Local Government Area is technically an established area, but, unlike slow-growth areas, is already experiencing intense and concentrated development. This development has been extensively analysed, projected and is supported by comprehensive planning in the form of Local Environmental Plans and Development Control Plans as well as supporting documents.

Ku-ring-gai Council is proceeding with a Direct Development Contributions approach.

This is considered justified due to the unique characteristics prevailing in Ku-ring-gai during this development phase which are further outlined below.

Most anticipated development is concentrated around key town centres which, with the exception of St Ives, were initially developed from the 1880s onwards (when the railway

²¹ NSW Department of Planning Local Contributions review June 2009 | Summary Report – First Tranche; Page 6

line first arrived on the north shore) through to the 1920s. Development is characterised by Victorian and Edwardian terrace style shops, and large Edwardian houses and Californian bungalows surrounded by private gardens on large blocks of land. By comparison to the fringe suburban areas bordering the national parks which were developed in the second development phase from the 1950s through to the 1980s, the areas along the railway lines are relatively poorly supplied with accessible local public open space.

Key areas of targeted open space are particularly critical to the future function, liveability and amenity of the town centres. The Ku-ring-gai Planning Panel, in preparing the then draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*, recommended these allotments be zoned RE1 for infrastructure acquisition effectively committing Ku-ring-gai Council to this expenditure.

Further, additional roads are required to accommodate and facilitate traffic flow and pedestrian movement around key town centres. The Roads and Traffic Authority has, in its commentary on the then draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008* supported this approach to the challenges of traffic and transport management presented by concentrated development. The Ku-ring-gai Planning Panel in preparing the then draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008* recommended these future roads be zoned SP2 for infrastructure acquisition effectively committing Ku-ring-gai Council to this expenditure.

The acquisition of land, which has significant development potential, and is in close proximity to the town centres, for the purposes of providing local parks and civic spaces, and new local roads, is a very costly exercise. Land values in most centres average around \$1,800-\$2,000 per square metre. A fixed rate indirect levy would simply be unable to provide sufficient income.

By way of example: at 1%, a single substantial \$10,000,000 development²² would provide just \$100,000 in contributions which would buy, but not embellish, just 50m² of land (approximately). Even at 5% such a levy would provide just \$500,000 which would need to be combined with at least two more such levies to be able purchase one single residential allotment in Ku-ring-gai with no provision for its embellishment. Between six and twelve such contributions would be required to provide for the property acquisition only for just one of the identified link roads now zoned SP2 for acquisition for infrastructure (which typically affect between two and four properties each) without providing for the construction of the road.

Indirect development levies simply cannot provide sufficient capital where land acquisition is required.

Unlike greenfield areas, Ku-ring-gai Council cannot economically or cohesively require significant land dedication from piecemeal in-fill development. In brownfield development areas such as this area, cumulative monetary contributions from all development that generates the demand must be pooled to purchase consolidated space. This is precisely the development scenario for which monetary development contributions were designed – accumulating sufficient funds to provide a consolidated facility or work from cumulative development that is individually too small to provide a separate facility but collectively creates a significant additional demand.

²² \$10,000,000 is the threshold for referral to a Joint Regional Planning Panel.

An alternative approach may be suggested wherein development centred on the six designated town centres may be subject to a direct levy and development outside the town centres to an indirect levy. This might be appropriate in the case where only very small scale infill development were likely to occur outside the six designated town centres. It is not appropriate in the situation which affects Ku-ring-gai where there are a number of highly significant known and potential sites which have the capacity to provide large numbers of new dwellings and additional people. These developments should rightly contribute towards the provision of the additional community facilities and new parks that will be needed as a result of this development. In the interests of fair and equitable apportionment amongst all development, all reasonably estimable potential development should be taken into account in a total picture.

Ku-ring-gai Council intends to investigate the potential for an indirect levy for minor development works following the effective in force date of this Contributions Plan in 2010/11. This will be the subject of further reporting to Council.

1.15 Administration of the Contributions System

The preceding sections dealt with policy matters related to the Development Contributions System in Ku-ring-gai. The following sections deal with the application of this Contributions Plan to development in Ku-ring-gai.

1.16 How are Contributions derived?

This plan calculates a contribution rate weighted according to the relative demand placed by residents on the need for additional and augmented facilities and amenities to derive a contribution rate per resident. Additionally, this plan also levies for the demand generated by additional commercial floorspace.

For residential development, contribution rates per resident are then multiplied by the prevailing occupancy rates for dwelling houses (from one to three+ bedrooms) and for studio/bedsit units, one bedroom units, two bedroom units and three+ bedroom units to derive a standard rate for each of these types of dwellings and accommodation based on the relative demand generated. There are also rates for seniors living dwellings, new allotments and non-private dwellings.

Contribution rates so derived are published in this document and regularly inflated as described in **1.38 Indexation of Contributions**.

At the time of development assessment, contributions are calculated for the proposed development. The credit for any existing development on the site is also calculated in accordance with this Contributions Plan. The credit arising from the development site is subtracted from the total contribution calculated and only the nett additional demand is levied on the development consent.²³

1.17 Determining the Nett Increase in Demand

These provisions specify the approach for determining the nett increase in demand for the purposes of levying only the nett additional demand arising from the development.

²³ A reference to development consent includes a reference to a Complying Development for the purposes of this Contributions Plan.

For the purposes of this Contributions Plan, a credit for the demand arising from existing development will be determined only in the following circumstances:

In the case of existing dwellings:

- ✓ a credit will be given for each dwelling, however in order to secure that credit, evidence of the number of bedrooms in each dwelling on the development site must be provided as part of the Development Application or application for a Complying Development Certificate.

In the cases of commercial premises:

- ✓ a credit will be given for the currently existing active (leased) floor area as applicable on a site the subject of a Development Application; or

In the case of vacant premises:

- ✓ in the case of recently vacated residential premises, a credit will be given for the population that has vacated the site for the purposes of redevelopment and/or as a result of changing economic trends *since* the most recent census on which the Contributions Plan is based. For the purposes of this plan, that means the 2006 Census; or
- ✓ in the case of recently vacated commercial premises, for the floor area that has recently been vacated for the purposes of redevelopment and/or as a result of changing economic trends *since* the most recent census on which the Contributions Plan is based. For the purposes of this plan, that means the 2006 Census.

Note: In each case the applicant must provide sufficient documentary evidence of the scope and usage of commercial floorspace that is the subject of such a claim for credit to enable that credit to be accurately calculated.

In the case of allotments recently rendered vacant by the demolition of previously existing residential or commercial floorspace:

- ✓ a credit will be given only where it can be demonstrated that the floorspace was demolished with the intention of releasing the site for imminent redevelopment. The applicant must provide documentary evidence of both intent and the quantum of past floorspace and/or bedrooms by dwelling to secure any credit sought.

Except as provided for above, no credit will be granted for a vacant residential allotment unless documentary evidence of past payment of a development contribution can be substantiated. Evidence of any past payment must be provided as part of the Development Application or application for a Complying Development Certificate.

In the case of an existing dwelling which straddles two or more existing allotments, any credit arising from that dwelling will be divided between each proposed allotment or each new dwelling in equal parts regardless of the exact location of the dwelling on the boundary. Evidence of the number of bedrooms in the existing dwelling must be provided as part of the Development Application or application for a Complying Development Certificate.

If a site the subject of a development application, notwithstanding the presence or otherwise of vacant buildings on the site, was vacated at the time of the most recent census on which the Contributions Plan is based and, therefore no population or the demand from that site was counted as part of the assessment of existing demand cited in this Contributions Plan, then no part of that former demand can be construed as 'present' or 'deemed to exist' for the purposes of securing a credit under this plan.

In all cases, the onus is on the applicant to supply accurate and complete data and documentary evidence, to enable a credit to be calculated in accordance with this Contributions Plan.

This section should be read in conjunction with **1.25 Exemptions from the Contributions Plan**, and **1.26 merit Exemptions from the Contribution Plan and sections 1.27-1.33** which detail other circumstances in which a case may be made with respect to an exemption from the liability to pay contributions either partially or in their entirety.

1.18 Complying Development

In relation to any application made to an accredited certifier for a complying development certificate, where that development meets the criteria set down in this Contributions Plan, by increasing the population and/or the demand for facilities and services arising from the development the subject of the application, then the accredited certifier must impose a condition requiring monetary contributions calculated in accordance with this Contributions Plan.

The attention of all accredited certifiers is directed to the specified contribution rates in the part of this Contributions Plan entitled: **Part A: Summary Schedules: Summary Contribution Rates** which specify the monetary contributions applicable to each type of development. It should be noted that contribution rates are subject to inflation. In the event further clarity is required, please contact Ku-ring-gai Council directly.

Accredited Certifiers must also have regard to Directions issued by the Minister for Planning for time to time.²⁴ In this regard it should be noted that Ku-ring-gai Council obtained a full exemption from the s94E Direction that would have otherwise capped residential development contributions in this Local Government Area with the effect that that Direction ceased to apply to Ku-ring-gai Council. That exemption was subsequently revoked and a cap imposed across the LGA. The exemption was later reinstated by a further s94E Direction for the areas subject to intensive redevelopment that is now well underway. Third parties are advised to refer to the Department of Planning website to ascertain the current status of all s94E Directions.

While it is noted that, if an accredited certifier fails to comply with the requirements of this Contributions Plan, the consent authority may impose the necessary condition on the complying development certificate and it has the effect as if it had been imposed by the accredited certifier, the potential for lost contributions is evident. As such, it is Ku-ring-gai Council's view that it is the professional responsibility of the individual certifier to accurately calculate and apply the contribution conditions of consent. It should be particularly noted that Ku-ring-gai Council is quite prepared to pursue any third party in the event of the non-receipt of any contribution to which it is entitled under this plan regardless of the nature of the omission that caused the non-payment.

²⁴ Planning Circular 09-020 issued 21 July 2009 entitled: Complying development – accredited certifiers to follow Minister's directions on development contributions.

Accredited certifiers are advised to ensure that they have adequate professional indemnity insurance.

1.19 Construction Certificates

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 the Council in accordance with the *Environmental Planning and Assessment Regulation, 2000*. Failure to follow this procedure may render such a certificate invalid exposing the certifier to legal action.

Where an applicant may have reached an agreement with Ku-ring-gai Council to provide a work in kind, material public benefit, dedication of land and/or deferred payment arrangement, this would, in the normal course of events, be subject to a formal Planning Agreement accompanying the development application and incorporated within the consent.

Once again, it is Ku-ring-gai Council's view that it is the professional responsibility of the private certifier to ensure that council receives all the contributions to which it is entitled under this plan as levied on the development consent. It should be particularly noted that Ku-ring-gai Council is quite prepared to pursue any third party in the event of the non-receipt of any contribution to which it is entitled under this plan regardless of the nature of the omission that caused the non-payment. Private certifiers are advised to ensure that they have adequate professional indemnity insurance.

1.20 When are the Contributions payable?

Ku-ring-gai Council acknowledges that Planning Circular PS 07-018 dated 6 November 2007²⁵ foreshadowed some future possibility of deferring contributions to payment at a later stage of the process than release of the Construction Certificate²⁶ with further clarification on process to be provided at some future date. No further detail on this matter has been provided to Local Government at the time of drafting – or adopting - this Contributions Plan.

Ku-ring-gai Council particularly notes the following concerns:

- Ku-ring-gai's current development phase commenced in 2004 with the result that Ku-ring-gai has commenced a rolling works programme designed to provide works in a timely manner to meet demand including the on-going purchase of open space. Ku-ring-gai faces a significant financial risk in the zoning of properties for open space acquisition and road infrastructure acquisition following gazettal of the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* which exceeds its current reserves. Additionally, Ku-ring-gai will shortly commence construction on a major recreational facility in the form of the West Pymble Aquatic Centre. Anticipated contribution receipts at Construction Certificate stage have been built

²⁵ This circular was superseded by Circular PS 08-017 dated 23 December 2008 which refers only to deferring State Infrastructure levies.

²⁶ Options canvassed included both Occupation Certificate and point of sale.

into Council's Long Term Financial Plan. Any delay in receipt of these payments will affect current commitments and any resultant financial costs will need to be built into the cost of these projects and, ultimately, into the contributions plan.

- Not all developers immediately sell all the units in a development. There are developers, particularly among the larger developers, who retain around 50% of some new developments as an investment. If payment is proposed to be deferred to point of sale, how will the payment date of these contributions be determined? How will council meet temporal nexus on works funded by contributions for which there is a delayed payment period possibly extending for some years, or even indefinitely?
- Some development companies, particularly smaller development companies, exist only for the construction phase of a development and are dissolved as soon as development is sold. In the event of an outstanding debt owed by such a company, how will the payment of contributions for key community infrastructure be guaranteed?
- While relatively rare, it is not unheard of for development companies to become insolvent during the course of construction and prior to occupation certificate. Ku-ring-gai Council holds the view that it is inappropriate for the community to become an unsecured creditor of an insolvent company through the non-payment of contributions that Ku-ring-gai Council would have been required to hold in trust on behalf of the community to provide key community infrastructure.
- Contributions are an established²⁷ and integral part of the total cost of producing new housing. Unless that cost is represented as an integral part of the total market cost of the new property, rather than as an additional fee at settlement, financiers will be unlikely to lend an additional amount of money to cover the contributions. This increases the deposit gap for the purchaser and completely fails to address the objective of keeping buyers in the market to the detriment of the development industry.

Accordingly, in the absence of a functional system that guarantees payment within a reasonable time, including provision for a payment guarantee in the event of insolvency of the developer, Ku-ring-gai Council continues to defer to the authority of the finding expressed by Commissioner Simpson²⁸ in 1989 arising from the Commission of Inquiry into contributions payable to councils under section 94 of the *Environmental Planning and Assessment Act, 1979*. Commissioner Simpson, having undertaken a thorough investigation into development contributions and following the analysis of extensive submissions, both written and oral, from local government, from developers, from the professional associations of both and other interested parties, supported payment at the release of the then Building Approval (now Construction Certificate). This represents the best balance between the competing desires of a developer to pay as late as possible in the development process and the obligations of local government to meet temporal nexus through a rolling works programme.

²⁷ Section 94 Contributions have been part of the *Environmental Planning and Assessment Act, 1979* since its inception thirty years ago.

²⁸ Simpson, William: *Operations and Practices Associated with Contributions under Section 94 of the Environmental Planning and Assessment Act 1979*, Report to the Minister for Local Government and the Minister for Planning, 1989.

It is noted that this issue has been revisited several times over the past twenty years including as part of the preparation of the 1997 *Section 94 Contributions Manual* and 2005 *Development Contributions Practice Notes* which have each guided the implementation and management of the contributions system over time. On each occasion, following thorough investigation, the system of payment at release of the Construction Certificate has remained standard practice in Local Government.

Accordingly, unless superseded by a formal Ministerial Direction or subsequent retrospective legislative amendment, Ku-ring-gai Council requires that contributions are paid, in full, as follows:-

- **In cases where the proposed development involves construction work only:**
Before the release of the Construction Certificate. In the case of staged Construction Certificates following a Development Consent that was not staged, payment is required before the release of the first approved Construction Certificate that relates to the Development Consent on which the contributions were levied except as amended by the note below:

Note: If staged²⁹ development is foreshadowed, then payment of contributions at release of individual Construction Certificates will only be permitted where there are staged Development Applications or where the initial Development Application separately identified each stage and the applicant made a written request as part of their initial application that separate development contributions conditions be calculated for each stage at the time of development consent. In these circumstances, credit for any existing development shall be apportioned across the stages as the council sees fit in the circumstances of the case. Identifying distinct stages in this manner is not intended to have any effect on the subsequent order in which the stages may be later developed.³⁰

- **In cases where the proposed development involves subdivision only:**
Before the release of any Construction Certificate related to the subdivision works or the release of the linen plans and/or Certificate of Subdivision, whichever occurs first. In the case of staged development refer to the Note above;
- **In cases where the proposed development involves both building works and subdivision:**
Before the release of the first Construction Certificate or the release of the linen plans and/or Certificate of Subdivision, whichever occurs first. In the case of staged development refer to the Note above;
- **In cases of Development Applications or Complying Development Certificates where no construction approval is required:**
Before the release of the Development Approval, Complying Development Certificate or the Occupation Certificate or the commencement of the use, whichever occurs first.

²⁹ The term 'stage' in this context means a building or group of buildings. It does not mean part of a building such as car parking levels or podiums.

³⁰ In cases where a construction certificate may be required prior to any demolition and that demolition is proposed to be undertaken, or it is anticipated that it may be undertaken, as a separate activity to the commencement of construction and therefore requires a separate construction certificate – this, too, must be foreshadowed as part of the initial development consent. If this is not taken into account as part of the development consent and so formally documented it will not be possible to obtain a construction certificate to enable demolition without triggering the requirement to pay the development contributions under this clause.

1.21 Payment of Contributions

The *Environmental Planning and Assessment Act, 1979* provides that contributions may be in the form of a monetary contribution or the dedication of land. The Act and Regulations also make provision for the carrying out of works in kind or the provision of a material public benefit in partial or full satisfaction of any contribution required. Each method, or any combination of these methods, is considered by this Contributions Plan to be a form of payment. Any agreement by the consent authority to accept the satisfaction by non-monetary means of a contribution condition does not alter the total calculated contribution arising from the additional demand generated by the development that is due and payable and no amendment to the contribution condition to reduce the calculated amount will be made. The method of satisfying a contribution does not change the obligation to make the contribution in the quantum specified.

1.21.1 Monetary Contributions

The monetary contribution is the most common means of satisfying a condition of consent requiring a development contribution. Payment must be in the form of cash, debit card (EFTPOS), direct debit (subject to clearance next day from Ku-ring-gai Council's bank) or by bank cheque. Ku-ring-gai Council does not accept credit cards, personal cheques or company cheques for the payment of Development Contributions.

1.21.2 Planning Agreements - Overview

Ku-ring-gai Council will request the applicant commences negotiation of a Planning Agreement under the *Environmental Planning and Assessment Act* where there is any proposal to dedicate land, carry out works in kind and/or provide a material public benefit. The joint voluntary agreement of the specifics of the proposal is required to ensure the legality of non-monetary payments of development contributions. The *Environmental Planning and Assessment Act* and *Regulations* thereunder require a draft Planning Agreement to be exhibited concurrent with a Development Application or a Local Environmental Plan / Development Control Plan. In order to satisfy these criteria, a prospective applicant must notify the Council of their preference to negotiate any non-monetary payment of development contributions prior to the lodgement of any Development Application.

Ku-ring-gai Council has an adopted *Planning Agreement Policy 2008*. It is intended that this document will be revised following the commencement of the legislation assented in June 2008 which had not, at the time of finalising the drafting this Contributions Plan, been commenced.

1.21.3 Planning Agreements with Land Provision for Infrastructure Purposes

A Planning Agreement may make provision for the transfer to the Council of land free-of-cost, or subject to such payment options as may be negotiated in the circumstances of the case, in full or partial satisfaction of a contribution required as part of a Development Consent. The land may be for any purpose identified within the works programmes of this Contributions Plan.

The estimated value of the land will be negotiated as part of the Planning Agreement, taking into account the unique characteristics of the property and the circumstances of the transfer including but not limited to:

- whether the land has been targeted by any adopted policy of the Council including, but not limited to any Local Environmental Plan, Development Control Plan, this Contributions Plan, and/or the Open Space Acquisition Strategy;
- in the case of land not targeted in this plan, Council will also assess the potential impact on the achievement of the identified works programme;
- the size, shape, location, accessibility and topography of the land proposed to be dedicated;
- whether the land adjoins an existing area of open space and can be readily consolidated into that area and/or the land will create or improve accessibility within the area;
- any factors which may affect the usability of the land such as soil condition, flood liability, possible site contamination, public accessibility and safety, proximity to existing uses, the current use of the land, the cost of embellishment or construction of the proposed facility, the impact on the current Contributions Plan works programmes, measures required to fence and maintain the land in the event that works cannot be carried out for some time, and the like;
- the degree to which the identified land can satisfy the purpose for which the contributions has been sought;
- the extent to which any development potential pertaining to the area to be dedicated has been lost or retained by the developer, in whole or in part; and
- the on-going costs to the Council of care, control and management both prior to and after any improvement works are carried out on the land.

Note: The dedication of land provided as an integral part of a development such as aspects of the landscaping plan, a forecourt or plaza, street frontages, pedestrian linkages and the like will not, as a general rule, be acceptable as a means of satisfying wholly or partly the obligation to pay a contribution required under this plan unless specifically identified herein.

To qualify as full or partial satisfaction of a required development contribution, all land must be formally dedicated. It is not the policy of Ku-ring-gai Council to accept publicly accessible space secured by a covenant or any means other than dedication.

1.21.4 Planning Agreements: Works in Kind and Material Public Benefits

An applicant may, in principle, and subject to Council's specific requirements, carry out any of the works which are identified the works programmes as works in kind.

For the purposes of this Contributions Plan, the term 'material public benefit' refers to works which are not specifically listed in the works programme but which are proposed by applicants as an alternative to paying a monetary contribution towards these costed, exhibited and adopted works. There are financial implications for Council in accepting such works and this is likely only to occur in truly exceptional circumstances.

An applicant may also propose works on public land (or future public land) for which no monetary compensation or offset will be supported by Council but which may be proposed and may be supported because they benefit the future operation or amenity of the development. Such applicant-driven works may also include additional

embellishment, beyond baseline standard, to works which are valued in this Contributions Plan.

All proposed works in the public domain must be formally agreed to by the consent authority and documented in a formal Planning Agreement under the *Environmental Planning and Assessment Act, 1979*. Planning Agreements have specific requirements including formal exhibition and reporting procedures to ensure transparency. Ku-ring-gai Council formally adopted its *Planning Agreement Policy 2008* on 15 July 2008. Applicants for works in the public domain, or on private land that will become part of the public domain such as parks or roads that will be dedicated to Council, need to familiarise themselves with this document.

In negotiating to carry out works in kind, the proponent must make particular reference to the cost estimates for that item located in the works programmes related to the Strategy chapters of this plan.

With respect to material public benefits, it is emphasised that the contribution rates in this plan are a direct division of the estimated total cost of that works programme by the contributing population. The works programmes within this Contributions Plan cater for the needs of a significant population increase in an environment of high land values. As such, the adopted works programme is comprehensive, extensive and fully costed. Many works have already been excluded in the interests of maintaining reasonable contribution rates. Additionally, Ku-ring-gai Council is already making a significant co-contribution to the total works programme on behalf of the existing population. Therefore, any applicant proposing an alternative work should be aware that Ku-ring-gai Council takes the view that any diversion of contributions from these adopted works to non-identified works threatens the achievement of the adopted works programme. Any such work would have to be of a truly exceptional relevance, quality and scale to be considered eligible for acceptance as a material public benefit.

Applicants should also be aware that Council will not hold itself bound to accept any works in kind or material public benefits which were not the subject of a formal Planning Agreement. Any applicant proposing land dedication or works in kind, including works identified in any Environmental Planning Instrument or Development Control Plan, should contact Council for a pre-Development Application meeting prior to lodgement of a Development Application in order to commence the timely negotiation of a formal Planning Agreement.

1.21.5 Planning Agreements: Development not covered by this Contributions Plan

This Contributions Plan applies to the type, scope and location of development that is anticipated in Ku-ring-gai through to 2031. The present planning environment, however, permits changes to permissible development to be effected relatively quickly through the use of State Environmental Planning Policies (SEPPs). In the event of a major development that will have demonstrable impacts not foreseen or catered for within this Contributions Plan, Ku-ring-gai Council advises the owners and applicants that scope for mitigating such impacts through a Voluntary Planning Agreement should be raised at an early stage of preparation of a Development Application.

1.22 Goods and Services Tax (GST)

At the time this Contributions Plan was prepared, the position of the Australian Taxation Office was that payment of development contributions made under the *Environmental Planning and Assessment Act, 1979* is exempt from the GST.

The budget for each work listed in the works programmes for this Contributions Plan has also been estimated nett of GST. It is expected that either the developer or the Council (provided with full documentation supplied by the developer) will claim the relevant GST exemption from the Australian Taxation Office.

1.23 Deferred or Periodic payments

The Council may permit the payment of contributions to be deferred or paid by instalments only in the following circumstances:-

- where the applicant has reached agreement with the Council to provide works-in-kind, land dedication and/or material public benefits documented in the form of a formal Planning Agreement which makes detailed and specific provision for the dedication of land and/or the carrying out works in kind and/or the provision of a material public benefit in partial or full satisfaction of a condition imposed by the development consent and, as an integral part of the delivery of that package of works process sets out an alternative timing for the payment of monetary contributions, with security if required; or
- in other circumstances, such as financial hardship, which must be substantiated in writing by the applicant with appropriate documentation, and which are determined to be both severe and sufficiently unique as to distinguish this applicant from any other applicant, which must be determined by Council on the specific merits of the case where the Council must also determine that the deferred or periodic payment of the contributions will not prejudice the timing or the manner of the provision of public facilities included in the works programmes within this Contributions Plan.

It should be noted with respect to the second category above that it is essential for any local government authority to treat all applicants and developers equally by the same criteria and, given that there is the potential for a pecuniary advantage for one applicant or developer in the context of a deferral of payment which, if extended to all, would prejudice the timing of the works programme, such an application without unique and severe extenuating circumstances is unlikely to succeed.

Subject to the criteria above, and unless otherwise expressed within a formal Planning Agreement, deferred monetary payments are acceptable only where a special deposit is made or where an unconditional, non-expiring Bank Guarantee has been submitted in accordance with Council's procedures. Insurance Bonds, including unconditional insurance bonds, are not accepted. Contributions being paid in the form of land dedication and/or the carrying out of works may be secured by the above methods or by transfer of the title of the land, by formal Planning Agreement or a combination of these methods as negotiated. Applicants should obtain current procedures for the lodgement, management and release of securities from Ku-ring-gai Council.

1.23.1 General matters relating to Bank Guarantees

Council may, if it decides to accept the deferred or periodic payment of a contribution, require the applicant to provide a bank guarantee by an Australian bank for the contribution or the outstanding balance of the contribution on condition that:

- i. The guarantee requires to bank to pay the guarantee amount unconditionally to the consent authority where is so demands in writing, not earlier that six months (or a term determined by council) from the provision of the guarantee or completion of the development or stage of the development to which the contributions or part relates; and
- ii. The guarantee prohibits the bank from having recourse to the applicant or other person entitled to act upon the consent before paying the guaranteed amount and/or having recourse to any appeal, dispute or controversy, issue or other matter relating to the consent or the carrying out of the development in accordance with the consent, before paying the guaranteed amount; and
- iii. The bank's obligation under the guarantee are discharged:
 - When payment is made to the consent authority according to the terms of the bank guarantee and the consent;
 - If the related consent lapses; or
 - If the consent authority otherwise notifies the bank in writing that the bank guarantee is no longer required.
- iv. The applicant pays interest to Council on the contribution or the outstanding amount at the overdraft rate on and from the date when the contribution would have been otherwise payable in accordance with **1.20 When are the Contributions payable?**³¹

Where the Council does not require the applicant to provide a bank guarantee, it may require a public positive covenant under section 88E of the *Conveyancing Act, 1919* to be registered on the title to the land to which the relevant development application relates.

All bank or other charges incurred in the establishment, operation or discharge of the bank guarantee shall be borne by the applicant. Subject to (i) above, the Council may call up the guarantee at any time without reference to the applicant, however the guarantee will generally only be called up where a cash payment has not been received, land dedication has not taken place and/or works have not been completed to Council's satisfaction by the end of the agreed period. In cases where a major work is to be carried out by extensive works in kind, the Council may agree to the lodgement of several bank guarantees for staged release providing the Council always holds sufficient guarantees or bonds to complete any outstanding work at any given time. The Council will discharge the bank guarantee when payment is made in full by cash payment, land dedication and/or by completion and transfer of works in kind and/or by completion and formalisation of a management agreement in respect of the works in kind or if the consent lapses or is formally surrendered.

³¹ This requirement may be omitted in the case of works in kind where no final monetary contribution will be due and payable following the hand-over of the asset.

1.24 Works exceeding the required Contribution

Where an applicant proposes to dedicate land to the Council and/or carries out works in kind, the agreed value of the land or works will be calculated with reference with this plan and to the unique circumstances of the particular case and incorporated within a formal Planning Agreement. Upon registration, the Planning Agreement supersedes any reference or costing in this contributions plan.

The estimated costs calculated in the works programmes in the Strategy Plan Chapters and Works Programme attachments represent the maximum project budget for which contributions are sought. This does not presently limit the scope of matters open for negotiation as part of a proposed Planning Agreement. In this context Ku-ring-gai Council notes the intent of the Minister to limit the scope of Planning Agreements to Key Community Infrastructure except with Ministerial approval.

A Planning Agreement may make provision for managing a situation where the works proposed exceed the required contribution for a whole development, or for a stage of development in the specific circumstances of the development. A Planning Agreement may make provision for contributions by Council towards the cost of additional work from its own revenue or assets including development contributions.

Note: No credit will be given for land or works, whether or not included as part of this Contributions Plan, unless such works have been formally agreed to by Council, by means of a formal voluntary Planning Agreement pursuant to the *Environmental Planning and Assessment Act, 1979* and the *Regulations* thereunder.

1.25 Exemptions from the Contributions Plan

The following types of development will be exempted from the obligation to pay a contribution under this Contributions Plan:

- Development which involves alterations and additions to an existing single family dwelling or the knock-down-rebuild of an existing free-standing single dwelling house where no additional dwellings will be created³²;
- Development for the purposes of a secondary dwelling where the second dwelling is integral and subordinate to the primary dwelling and cannot be subdivided.³³
Note: There are strict criteria for secondary dwellings to distinguish them from dual occupancies;
- Development for the purposes of a single dwelling house³⁴ on a vacant lot where it can be established that a development contribution relating to that lot was paid at time of subdivision³⁵;

³² The term 'existing single dwelling' in this context does not include dwellings that have been recently constructed as part of a new development, subdivided into individual 'single' titles, including Torrens Title, and are now the subject of separate applications for alterations and additions. In such cases the full nett additional development contributions will be formally levied as part of any development consent.

³³ In the event a secondary dwelling becomes a dual occupancy by virtue of a subsequent application for extensions and/or subdivision full development contributions for the entire nett additional dwelling will be applied as part of any such approval. Secondary dwellings are not to be regarded as a potential mechanism for avoiding required contributions from new separate dwellings that are properly classed as dual occupancies.

³⁴ Development for the purposes of a dual occupancy on such a lot will be levied for the two new dwellings with a credit for one residential lot ensuring that only the nett additional demand is levied.

³⁵ The onus of proof is on the applicant and/or owner of the subject property and is to be submitted concurrent with the Development Application.

- Development for the sole purpose of the adaptive reuse of an Item of Environmental Heritage;
- Development for the purposes of infrastructure identified under this Contributions Plan including development for the purposes of community and recreation facilities.

The primary reasons for these exemptions include:

- Maintaining the flexibility for local residents to extend their homes to accommodate their existing family without undue financial hardship;
- Supporting the potential for the provision of small-scale local affordable housing for elderly relatives and older children in the form of secondary dwellings;
- Facilitating adaptive re-use of heritage properties; and
- Facilitating the development of infrastructure which is essential to support the population without additional cost to that population.

1.26 Merit Exemptions from the Contributions Plan

It is not always possible to identify in advance all developments which may be able to make a meritorious case for an exemption from the obligation to pay some or all of the applicable contributions. On the principle of ensuring public accountability, transparency and equity between all developers, this section specifies the limited opportunity for making a merit-based case for exemption.

Council may formally consider, on the individual merits, a case for exempting the following types of development from the levying of contributions:

- Developments which provide a distinct community benefit on a not-for-profit basis including but not necessarily limited to: fire stations, police stations or police shopfronts, ambulance stations, rescue services, State Emergency Service (SES) and Rural Fire Services (RFS) operational bases and the like³⁶;
- Development by or for non-profit or cooperative organisations which provide a distinct community benefit including but not limited to: the provision of childcare services (especially for under-2s and/or special needs children) including kindergartens and pre-schools; outreach services, community services or the like, on a cooperative or not-for-profit basis;
- Development which involves an application solely for the internal conversion of one existing single terrace style shop-top type dwelling (typically located in the town centres along the Pacific Highway) or a freestanding single dwelling which has recently been used for commercial purposes back to residential use. This potential exemption will not apply where that conversion occurs as part of a larger redevelopment which must be considered as a whole; and/or
- Development where it can be demonstrated to the satisfaction of Council that in any particular category of contribution that the development, by the particular nature of its use, in the unique circumstances of the case, does not generate a demand for, or derive benefit from, some or any of the types of facilities and amenities to be provided. **Note:** Given that the grant of any such exemption, full or partial, may be considered to create a precedent or confer a pecuniary advantage on one developer over others, such an exemption is not likely to be granted unless there are absolute meritorious circumstances that would distinguish the case of the subject development from any other. All such arguments will be put before

³⁶ This provision is not intended to include corporate headquarters of any type.

Council for formal determination and the full text of any such submission will be publicly available on Council's website for public scrutiny.

Full details of any case for exemption must be included as part of the Development Application to enable the Council to make a merit-based assessment of the unique circumstances of the specific case in question concurrent with the consideration of the Development Application as a whole.

1.27 Contributions and Part 3A Development (Ministerial Sites)

It is the policy of Ku-ring-gai Council to request the Minister, any Joint Regional Planning Panel, the Ku-ring-gai Planning Panel, or any other body acting on behalf of the Minister, to apply Council's current Contribution Plan to any determination they may make.

It is considered reasonable and equitable that all development that imposes an additional demand, contributes towards facilities provided to address that demand.

1.28 Contributions and Development by the Crown

Excepting compliance with any direction issued from time to time, Ku-ring-gai Council holds the view that development by the Crown is subject to development contributions in the same manner as development by a private developer. This does not preclude Crown development from arguing a case for merit exemption in the same manner as a private developer.

Ku-ring-gai Council will, if required, seek the formal concurrence of the relevant Minister to any consent condition seeking development contributions.³⁷

1.29 Contributions and the Economic Stimulus Plan

The NSW State Government has contemplated the application of development contributions to works to be carried out under funding from the Nation Building Economic Stimulus Plan under the document entitled: *Australian Government Nation Building Economic Stimulus Plan - NSW Taskforce Update - Planning Edition - Issue No 3, 27 July 2009*.

1.29.1 Education Projects

In respect of Education Projects, the policy position of the NSW Government is as follows:

“Education projects

The Policy for both government and non-government education projects approved under the Nation Building and Jobs Plan Act is that:

- *neither government nor non-government projects will be required to pay development contributions for the component that is funded by the Nation Building Stimulus Plan;*

³⁷ “A consent authority (other than the Minister) may not ... impose a condition of consent (on Crown development) except with the approval of the Minister or the applicant.” Circular PS 09-017 issued 2 July 2009.

- *the Infrastructure Coordinator General may apply conditions requiring contributions to school projects that contain components that are not funded by the Nation Building Economic Stimulus Plan.*

*An example would be a new building costing say \$10m which includes a \$2m library funded by the Nation Building Economic Stimulus Plan with the balance of funds provided by the school. In such cases it is proposed that any approval would include a condition requiring that for the \$8m non-Nation Building funded component, the school is to pay contributions in accordance with the Council's Contribution Plan.*³⁸

The Minister for Planning has formalised this policy position by the issue of a s94E Direction on 9 September 2009 to the effect that any component of a development that is a BER project is not subject to development contributions in the manner of other comparable developments.

1.29.2 Social Housing Projects

In respect of Social Housing Projects, the policy position of the NSW Government for Affordable Housing approved under the *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 (Nation Building and Jobs Plan Act)* is as follows:

"Social Housing projects

The Policy for social housing projects is as follows:

- *no local development contributions apply to projects with 20 or fewer dwellings in one application;*
- *the first 20 dwellings in any application will not be subject to any local developer (sic) contributions;*
- *for the 21st dwelling and above in the Sydney metropolitan area, the local development contribution will be \$10,000 per dwelling OR in accordance with the council's Section 94 Plan, whichever is the lesser;*
- *no local development contributions are payable for seniors housing developed in accordance with the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004³⁹;*
- *no State Infrastructure levies will apply;*
- *any component of a social housing project which is not for social housing use, such as commercial or retail areas, or dwellings for private rent or sale, will be required to pay contributions in accordance with the council's section 94 Contributions Plan.*

The rationale for this is that developments with 20 or fewer dwellings determined under the Infrastructure SEPP provisions will not pay any local developer (sic) contributions, therefore the same criteria should apply to the same number of units approved under the Nation Building and Jobs Plan Act. The policy is consistent with the Section 94E Direction made by the Minister for Planning in relation to seniors housing. For developments with in excess of 20 dwellings a reasonable rate per dwelling has been set based on information provided by Housing NSW on the range of contributions paid to councils."

³⁸ Australian Government Nation Building Economic Stimulus Plan - NSW Taskforce Update - Planning Edition - Issue No 3, 27 July 2009.

³⁹ At the time of drafting this Contributions Plan, *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* only exempts social housing providers from the obligation to pay development contributions.

It is noted, however, that, at the time of drafting this Contributions Plan, the Minister for Planning has not formalised this policy position by the issue of a s94E Direction for the development of affordable housing under the Economic Stimulus Plan (as distinct from the stance in relation to Education Projects). Accordingly, while this is stated a policy position, it is not, at this stage, binding on local government, though this may change in the future.

At present, it appears that only developments undertaken by Housing NSW would qualify for funding under the Economic Stimulus package but this is not absolutely clear and it could, in any case, be subject to future change. In the case of development by Housing NSW, such development would also be development by the Crown and covered by **1.28 Contributions and Development by the Crown** above and the application of this Contributions Plan would be subject to negotiation.

In the event that social housing development supported by the stimulus plan is extended beyond Housing NSW, for so long as the issue of development contributions remains a non-binding matter, Ku-ring-gai Council will consider such developments on their merits in accordance with the legislation in force at the time - including paying due regard to the importance of encouraging and supporting affordable housing. It is emphasised that Ku-ring-gai Council supports the principle of the provision of affordable housing and intends to prepare an *Affordable Housing Strategy* in support of the Principal Local Environment Plan but also has key infrastructure issues.

1.30 Contributions and Aged and Disabled Persons Housing

Except as provided for by any over-riding legislation, contributions for developers of Aged and Disabled Persons Housing that do not meet the definition of a Social Housing Provider are due and payable in the same manner as contributions for any new dwelling. Nexus is determined for each category of facility within the Strategy Chapters. Specific occupancy rates have been determined for Seniors Living type housing to reflect the actual demand likely to arise from units with restricted occupancy.

1.31 Contributions and other Affordable Housing

As previously stated, Ku-ring-gai Council supports the principle of the provision of affordable housing for the community in the short term and in the long term and will proceed to further investigate affordable housing issues as part of the instigation of the Principal Local Environment Plan process.

At present there are no formal directions limiting the application of development contributions to affordable housing except in respect of the provision of housing by social housing providers of the type referred to in **1.30 Contributions and Aged and Disabled Persons Housing** above.

Accordingly, unless superseded by a Direction, new SEPP or other legislative mechanism, this Contributions Plan enables Ku-ring-gai Council to consider the application of development contributions to such applications on their merits. Council may consider exempting developments which provide affordable housing for the general community subject to the satisfaction of key criteria, including the provision of affordable housing in perpetuity, or may provide for development contributions to be calculated but suspended for so long as the housing remains affordable housing under the applicable definitions and management criteria.

The reason for this policy position is that there has been a high demand for private housing for aged persons in Ku-ring-gai (which are not automatically rendered affordable by virtue of that restriction alone) and that there are a number of religious entities with significant land holdings in the Local Government Area. As such there is genuine potential for significant shortfalls in contributions that would severely compromise Ku-ring-gai Council's capacity for the provision of the essential infrastructure required by the anticipated development and incorporated within this Contributions Plan. While Ku-ring-gai Council is supportive in principle of the provision of Affordable Housing, such provision should not become a means of denying the community funding for essential infrastructure.

The various types of affordable housing affected by this policy position are detailed below. Where no prohibition on contributions exists, Ku-ring-gai Council will calculate development contributions and will seek to apply them.

As emphasised above, Ku-ring-gai Council supports the principle of affordable housing and notes that the on-going suspension of development contributions would be likely to encourage any such housing to remain affordable housing in perpetuity while still permitting flexibility for the original developer and subsequent investor to withdraw such housing from the affordable pool.

Formal applications for the suspension of contributions under this section must comprehensively argue the case for suspension including the specific circumstances that would distinguish the subject proposal's merit case from others. Applications for merit suspension will be referred to Council for formal determination and accompanying submissions will be made public as part of that process.

In the event of a successful merit argument, a condition, fully suspended while that criterion is met, will be applied to the consent. Applicants should liaise with Ku-ring-gai Council for Development Applications of this nature.

1.31.1 Affordable Rental Housing

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* lists the following types of housing provision as potentially meeting the criteria for new affordable housing rental development:

- any residential development by the Land and Housing Corporation (Housing NSW),
- secondary dwellings,⁴⁰
- boarding houses,
- supportive accommodation,
- group homes.

Affordable rental housing may be provided by:

- private developers,
- joint ventures between public authorities, social housing providers and private developers,
- social housing providers as defined in *SEPP (Affordable Rental Housing) 2009* (see 1.31.2 below).

⁴⁰ Dwellings that meet the strict criteria identifying 'secondary dwellings' are already exempted under 1.25 of this Contributions Plan.

1.31.2 Social Housing Providers

State Environmental Planning Policy (Affordable Rental Housing) 2009 defines Social Housing Providers⁴¹ as follows:

social housing provider means any of the following:

- (a) the Department of Human Services,
- (b) the Land and Housing Corporation,
- (c) a registered community housing provider,
- (d) the Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (f) a local government authority that provides affordable housing,
- (g) a not-for-profit organisation that is a direct provider of rental housing to tenants.

Note: For the purposes of this Contributions Plan it is recognised that social housing providers may also provide for-profit housing or a mix of social and for-profit housing as part of any given development. Only housing that meets the criteria of social housing will be considered as affordable housing for the purposes of this Contributions Plan.

1.32 Private Boarding Houses, Group Homes and Affordable Housing

Unless superseded by legislation or direction, in the case of private developments such as hostels, group homes and boarding houses, this type of development may be able to justify a case for an exemption so long as it meets State Government criteria for a tax exemption for low-cost accommodation.

Formal applications for the suspension of contributions under this section must comprehensively argue the case for suspension including the specific circumstances that would distinguish the subject proposal's merit case from others. Applications for merit suspension will be referred to Council for formal determination and accompanying submissions will be made public as part of that process.

In the event of a successful merit argument, a condition, fully suspended while that criterion is met, will be applied to the consent. Applicants should liaise with Ku-ring-gai Council for Development Applications of this nature.

1.33 Contributions and Temporary Uses

Where a use is of an interim or temporary nature and subject to a short timeframe time-limited consent which will expire requiring the cessation of the use and/or demolition of the structure, then contributions will be calculated but will be suspended – meaning no payment is due at activation of the consent. In the event a subsequent Development Application is lodged to continue the use, contributions will be due and payable notwithstanding the short term existence of the use with full application of the applicable inflation. An example of such a use would be a temporary free-standing display unit or a temporary sales office.

⁴¹ The wording of the definition of social housing providers in *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* is similar in import but with some dated references.

1.34 Accounting for Development Contributions

Separate accounting records are maintained for all development contributions at the Ku-ring-gai Council. A contributions register is maintained by council in accordance with the *Environmental Planning and Assessment Act* and the *Regulations* thereunder. The register is maintained in an electronic format and therefore may be inspected on request on provision of reasonable notice.

1.35 Policy on Grants and Development Contributions

Ku-ring-gai Council recognises that contributions are only a proportion of the infrastructure costs of the Capital Works Programme. Council also recognises that development contributions cannot be levied to 'catch up' on any backlog in the rate of provision - at most, Council may seek contributions to maintain the status quo, even if that is technically inadequate. The necessity of ensuring that contributions are reasonable may mean that Council is not able to maintain current per capita rates of facility provision particularly in the case of land intensive works such as new parks.

Ku-ring-gai Council also recognises that capital works funded by development contributions and by the grants system generally must be mutually exclusive. It is the Council's intention to seek grants only in respect of works, or components of works, which are not formally part of this Contributions Plan. These may include those works which, for various reasons, cannot or should not be wholly or partially levied for: such as the relocation or rearrangement of existing facilities to better use an existing space or facilities which, if included in their totality, would result in an excessive and unreasonable contribution rate.

By way of example, Ku-ring-gai Council has recently received a Federal grant to fund a sustainable water supply at North Turramurra Oval. While other works to North Turramurra Oval are valued by this Contributions Plan, this particular aspect of the project is not included in the total budget under this Contributions Plan.

Works beyond the scope of baseline works included within this Contributions Plan are considered to be additional works for the purposes of this assessment even if they occur in the same physical space e.g. higher quality or more extensive landscaping and provision of higher quality or additional park furniture in parks and sportsgrounds or more extensive or higher quality town centre embellishments and street furniture.

Ku-ring-gai Council may also seek grants for projects valued in this Contributions Plan if considered necessary to make up for any short-fall in contributions that were anticipated and would have been received but for government policy limiting or precluding contributions from a particular development or class of developments. This input is intended to be sought only if necessary to ensure the project is not delayed to the detriment of the area as a whole as a direct result of such policy.

1.36 Policy for the Recoupment of Past Works

Ku-ring-gai Council entered the present development phase effectively from 2004 when the first medium density approvals were granted under *Ku-ring-gai Local Environmental Plan 194*. Population growth remained stable until after the 2006 census when the new residents of those approved developments began to appear in the Estimated Resident Population statistics published by the Australian Bureau of

Statistics. Ku-ring-gai was already planning for growth in 2004 which expanded with the focus on the six key town centres from 2005 onwards.

This Contributions Plan reflects the Metropolitan Strategy and covers development growth from the period of 2004 to 2031 with consequential population growth from 2006 onwards. Long term works which support the full anticipated extent of population growth commencing from the predecessor 2004-2009 Contributions Plan, such as the West Pymble Aquatic Centre, are rolled into this Contributions Plan. No works completed before 2004 are recouped in this Contributions Plan because such works could not meet the key criteria of having been provided in anticipation of the impending growth in population.

Works that will meet demand arising from the total end population at 2031 and which are, therefore, proportionally funded over that period of time by that total population, will be provided on a rolling works programme through to 2031. These works will roll over to recoupment works on completion. They cannot be deleted from the Contributions Plan until the technical payback of internal borrowings from within the Contributions Plan as a whole, in order to bring that work forward from 2031, is achieved. To do so prematurely would compromise the proportional funding of the remaining works programme. Contributions Plans essentially mirror a Nett Present Value system in terms of the time period foreshadowed but rely on costs in today's dollars plus the processes of inflation over time plus investment returns in order to keep pace with increasing costs over time.

1.37 Modifications to Development Consents

A subsequent section 96 modification to an issued Development Consent does not alter the original date of consent. Any formal application to amend a Development Consent in such a way as will consequentially alter the contributions due and payable will be taken to authorise a change to the development contributions consent condition(s).

It is understood that any s94E Direction applying to consents issued after a certain date will not apply to subsequent s96 modifications of consents issued prior to that date unless that is specified in the terms of the Direction.

All such amendments are considered under the Contributions Plan that applied at the date of the original development consent. Accordingly the procedure is different depending on whether the original contribution has, or has not, been paid.

1.37.1 Where the Original Contribution has not been paid

If the development contributions levied on the original consent have not yet been paid, the contributions are recalculated in their entirety including any credit for any existing development that applied at the date of the original consent. The revised consent condition will replace the original condition.

1.37.2 Where the Original Contribution has been paid

If the development contributions levied on the original consent have been paid, the procedure is different because it is not reasonable to apply inflation to that part of the contribution which has been paid. Given that payment generally occurs at the release of the Construction Certificate, it is also likely that the development will be under construction.

In these circumstances, the development for which contributions have been paid is considered to be the existing development. This approved development will be credited as the existing development for the purposes of the recalculation. The proposed amended application in its entirety is, therefore, the proposed development for the purpose of calculating the contributions.

In this way, only the nett additional contribution, if any, is charged at the current CPI/HPI. In this circumstance an additional condition will be inserted alongside the original condition which remains in the consent because the additional contribution does not supersede or obviate the obligation to pay the original contribution.

Note: No refunds will be provided in the event there are no nett additional contributions required as all contributions received are committed to Council's rolling works programme in such a manner as will address temporal nexus and Council is entitled to certainty in cash-flow.

1.38 Indexation of Contributions

Contributions towards the capital works programme in this Development Contributions Plan will be indexed quarterly by the Consumer Price Index (All Groups Sydney), being a readily accessible public index. Contributions towards land acquisition will be indexed quarterly by the Housing Price Index (Sydney), being, likewise, a readily accessible index. Contributions will continue to inflate until they are paid.

Both the Consumer Price Index and the Housing Price Index are published quarterly on the website of the Australian Bureau of Statistics at www.abs.gov.au.

For the purposes of indexation, there is no differentiation in this plan between past works under recoupment and future works – both will be indexed quarterly. The amendments to the development contributions legislation which commenced on 8th July 2005 effectively required that contributions for past works must also be inflated in accordance with the *Environmental Planning and Assessment Regulation, 2000* as specified in the relevant Contributions Plan. This process is fair and reasonable because it facilitates the timely provision of works under a rolling works programme by facilitating internal borrowing.

Contributions for all works will be adjusted both at the time of consent of an individual Development Application and time of payment in accordance with the quarterly Consumer Price Index (All Groups Sydney) and the Housing Price Index– Established House Prices (Sydney). The justification for this adjustment lies both in the need to keep pace with increasing costs of implementation and to ensure equity between earlier and later developers in real terms (time value of money).

It should be noted that there are essential lead times for Development Applications which are reported to the Consent Authority for determination. If the quarterly CPI or HPI changes between the reporting deadline and the council meeting, the updated amount will not necessarily appear in the consent. All contributions will continue to inflate until paid.

For changes to the Consumer Price Index – (All Groups Sydney), the contribution rates within the plan will be reviewed on a quarterly basis in accordance with the following formula:

The formula below is used to calculate the changed contributions payable:

$$\$C_{CW} + \frac{\$C_{CW} \times [(Current\ Index - Base\ Index)]}{[Base\ Index]}$$

Where:

$\$C_{CW}$	is the contribution towards capital works at the time of adoption of the plan expressed in dollars;
Current Index	is the Consumer Price Index as published by the Australian Bureau of Statistics available at the time of review of the contribution rate;
Base Index	is the Consumer Price Index as published by the Australian Bureau of Statistics at the time the works programme of this Contributions Plan was costed.

For changes to the Housing Price Index – Established House Prices (Sydney), the contribution rates within the plan will be reviewed on a quarterly basis in accordance with the following formula:

$$\$C_{LV} + \frac{\$C_{LV} \times [(Current\ LV\ Index - Base\ LV\ Index)]}{[Base\ Index]}$$

Where:

$\$C_{LV}$	is the contributions towards land within the plan at the time of adoption of the plan expressed in dollars;
Current Index	is the land value index as published by the Australian Bureau of Statistics available at the time of review of the contribution rate;
Base Index	is the land value index as published by the Australian Bureau of Statistics at the time the works programme of this Contributions Plan was costed.

Note: For construction cost estimate purposes, the base date of this Contributions Plan is the September Quarter 2009. For land value cost estimates, the base date of this Contributions Plan is the December Quarter 2008. These are the respective quarters within which the Quantity Surveyor cost estimates were undertaken by Page Kirkland and the land valuations estimates were undertaken by HillPDA.⁴²

Commencing during 2010, following the in force date of this consolidated Contributions Plan, Ku-ring-gai Council intends to fully integrate its contributions management with the mainframe system. As each updated CPI and HPI figures is entered into this system, it will automatically inflate unpaid contributions until such time as they are received. It will be necessary to verify with Council the correct payment due at the date payment is proposed.

⁴² At the time the land valuations were commissioned in November 2008, the practical import of the Minister for Planning's January 2009 s94E Direction limiting contributions to \$20,000 per residential dwelling, subsequent appeal processes, and subsequent s94E Directions dated 31 May 2009, 4 June 2010, 14 September 2010 and 16 September 2010 could not have been foreseen or these valuations would have been commissioned much later in the review process.

1.39 Pooling of Contributions

To facilitate the orderly and timely provision of public amenities and facilities, this plan authorises monetary development contributions paid for different purposes to be pooled and applied progressively towards the works identified in this Development Contributions Plan. The estimated timing and priority for expenditure on each work is set out in the works programmes however development is regularly monitored as part of the management of the Development Contributions system and these priorities may be altered in the interested of better meeting the key requirements of geographic and temporal nexus.

As part of the financial assessment process before commencing any new major work, Council will consider whether such internal borrowings will unreasonably prejudice other the works in the works programme.

The works programme under this Contributions Plan has, from draft stage, commenced the process of full integration into Ku-ring-gai Council's Long Term Financial Plan looking forward over the next twenty years. This process facilitates the assessment of all consequential financial effects of pooling contributions to bring forward any given work allowing those effects to be recognised and managed.

1.40 Discounting

Ku-ring-gai Council has had regard to the *Development Contributions Practice Notes – July 2005* issued by the Department of Planning and current at the time of finalisation of this Contributions Plan. The section in respect of discounting reads as follows:

“Discounting Contributions

Discounting means reducing the calculated contribution rate in order to achieve a specific planning, social, economic or environmental purpose.

Discounting should not be confused with:

- *apportionment* which ensures that new development only pays for the proportion of the demand that it generates;
- *exemptions* which provide relief of some types of development from a specific contribution (or part);
- *credits* which refer to the allowance a council may make for existing development, for works-in-kind or for a material public benefit.

...

It is extremely important for a council to consider the implications which discounting, and the consequent reduction in contributions, may have for the existing and/or the new community.

Implications could include the delay in the provision of an identified facility or the provision of a facility of a lesser standard or capacity.

Another implication is the creation of a precedent. Where discounting has been actively employed, perhaps to encourage development, it is often difficult to shift the policy or defend a new policy in the face of past actions.

Discounting should be used judiciously as if effectively means that existing ratepayers are subsidising future development. Council and the community must be made fully aware of the financial implications of discounting practices.”

On Friday 4 June 2010, effective Monday 7 June 2010, the Minister for Planning issued a s94E Direction requiring that contributions for residential development be arbitrarily discounted to comply with a maximum of \$20,000 for each lot authorised by the consent. This s94E Direction remained in force until 14 September 2010 when Ku-ring-gai was granted an exemption for the areas that are subject to more intensive redevelopment capacity as defined by the then current *Ku-ring-gai Town Centres Development Contributions Plan 2008* and the recently gazetted *Ku-ring-gai Local Environmental Plan (Town Centres) 2010*.

In the preceding year, 2009, Ku-ring-gai Council had defended its then current contributions plans and had achieved an exemption from an earlier s94E Direction which would otherwise have limited contributions in a similar manner effective from 30 April 2009. This exemption was granted without this cap ever coming into force for development in Ku-ring-gai. Compliance with any Minister’s Direction limiting contributions should not, therefore, be interpreted as a precedent set by Ku-ring-gai Council notwithstanding its lawful compliance for so long as any such a Direction is in force.

1.41 Ministerial Directions under s94E

At the time of adoption of this Contributions Plan, a s94E Direction limiting contributions for residential development in part only of the Ku-ring-gai Local Government Area is in force. That s94E Direction took effect on and from 16 September 2010.

The subject s94E Direction identifies by geographic description areas of Ku-ring-gai in which there is no ‘cap’ applying to contributions calculated in accordance with current adopted and in force Contributions Plans. Areas outside that geographic area continue to be subject to a cap as per the terms of the Direction.

Following the adoption of this Contributions Plan, it is anticipated that this Direction will be amended to alter the resultant outdated references to *Ku-ring-gai Town Centres Contributions Plan 2008* in the geographic description of the ‘grandfathered’ areas in Schedule 2 to refer to this Contributions Plan.

Ku-ring-gai Council will continue to comply with current s94E Directions in respect of the application of this Contributions Plan.

In respect of the specific s94E Direction in force at the time of adoption of this Contributions Plan, the following statement is to be noted:

At the time this Contributions Plan was finalised, a Ministerial Direction issued pursuant to section 94E of the Environmental Planning and Assessment Act 1979 and in effect on and from 16 September 2010 was current and provided that a Council must not impose a condition of development consent under section 94(1) or 94(3) of the Act requiring the payment of a monetary contribution exceeding \$20,000 for each dwelling or lot authorised by the consent.

The Ministerial Direction identified land in Schedule 2, described as at 16 September 2010, to which the direction did not apply. Part only of the Ku-ring-gai Local Government Area was geographically identified in that Schedule at paragraph (8).

Thus, in respect of land other than land identified in Schedule 2 of the direction, in the event that the total contribution calculated in accordance with this Contributions Plan exceeds \$20,000 for each dwelling or lot authorised by the consent, the total contribution will be reduced to a maximum of \$20,000 for each dwelling or lot authorised by the consent in compliance with the s94E Direction for so long as that Ministerial Direction remains in effect.

1.42 Monitoring and Review

Ku-ring-gai Council acknowledges the necessity for monitoring a range of variables with respect to the on-going strategic management of the contributions system including: building and population growth, assessed demand, income and expenditure, future cash-flow and operational management systems.

Ku-ring-gai Council recognises and supports the importance of keeping a Contributions Plan under review.

It is generally intended that this plan will be comprehensively reviewed every five years triggered by the full release of census data from the five-yearly census. It is anticipated that data from the 2011 census will be released during 2012 allowing a review to commence in that year.

Ideally, there will also be at least one review between each census. Reviews may also be triggered by the need to manage specific aspects of the plan such as significant changes in the cost of land or materials; in the event key parameters such as the scale of future development change; or in response to legislative change.

Note: While Ku-ring-gai Council commits to keeping this Contributions Plan under review, nothing in this Contributions Plan can be taken as a commitment to adopt any review of this document by any specific date. Nothing in this Contributions Plan may be read as implying that the Plan will cease to operate unless reviewed within any particular period.

1.43 Dictionary and References

The definitions supporting the operation of this Contributions Plan and the References relating to the preparation and consolidation of this Contributions Plan are contained in **Part D: Dictionary and References** following **Part C: Strategy Plans**.