



Ku-ring-gai Council

Ku-ring-gai s94A Contributions Plan 2015

Aligned to the Metropolitan
Strategy Development 2004-2031

Ku-ring-gai S94A Contributions Plan 2015

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Legislative Context

At the time of drafting completion in July 2015 the active legislation governing 'indirect' contributions plans remains the *Environmental Planning and Assessment Act 1979* and the *2000 Regulations* thereunder.

The *Development Contributions Practice notes – July 2005 (as amended)* issued by the Department of Planning to guide the preparation of Contributions Plans remain the active Guidelines currently in effect. The *Environmental Planning and Assessment Regulation 2000* requires a council to have regard to these Practice Notes. While a consultation draft for new guidelines was issued in 2009, it is not currently in effect but the general best practice principles therein have been noted in the drafting of this indirect s94A Contributions Plan.

Legal Context

This indirect s94A Contributions Plan is to be the secondary contributions plan in operation in the Ku-ring-gai Local Government Area. It is intended to be subservient to the main contributions plan being the adopted and in effect **Ku-ring-gai Contributions Plan 2010**. This indirect contributions plan is intended to apply to different development that is not subject to a contribution under **Ku-ring-gai Contributions Plan 2010** and to support a different but supplementary works programme.

In the unlikely event that by either location or type, it could be considered that both contributions plans *could* apply to any development and noting that, in law, that no consent can be levied under both types of contributions plans, then **Ku-ring-gai Contributions Plan 2010** shall always apply in preference to this plan to the extent any conflict and exclude the application of **Ku-ring-gai s94A Contributions Plan 2015** to that development.

Background Context

Section 94A of the *Environmental Planning and Assessment Act* was introduced in the 2005 amendments to provide an alternative mechanism for levying cumulative contributions in areas where development may be difficult to predict, slower paced, geographically scattered, or any of these factors combined. Section 94A is fixed at a small percentage – 1% or less – of the cost of development over \$100,000. It yields relatively low quantum amounts of contributions consistent with small scale development/redevelopment which, none-the-less, still has a collective cumulative impact on demand for new and/or upgraded facilities and infrastructure. Section 94A Contributions Plans are called indirect contributions plans because the contribution amount relates to a fixed percentage of the cost of the development rather than to specific demand generated by site-specific quantifiable additional population or site-specific traffic generation.

Ku-ring-gai has a direct s94 Contributions Plan covering areas of intensive redevelopment as well as development types which impose a high cumulative demand on the provision of new facilities and infrastructure including new subdivisions and new dwellings on vacant lots where no contribution was made at time of subdivision. The demand generated by this type of development is directly measurable. Indirect s94A Contributions Plans are less complex and are suited only to small-scale developments – or individual developments remote from the major local centres – that place a cumulative – or intensive but singular – demand on facilities and infrastructure.

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Part 1: Contributions Plan Overview, Management – Policies and Procedures

1.1 What is the name of this s94A Contributions Plan?

This indirect Contributions Plan is called: **Ku-ring-gai s94A Contributions Plan 2015**. This document is a Contributions Plan under Division 6 of the *Environmental Planning and Assessment Act, 1979* as amended.

1.2 What is the purpose of this s94A Contributions Plan?

The purpose of this plan is to enable the council to require an indirect contribution in accordance with the requirements of the *Environmental Planning and Assessment Act, 1979* - and the *Environmental Planning and Assessment Regulation* thereunder - towards the provision of supporting infrastructure.

This indirect s94A Contribution Plan:

- seeks to complement **Ku-ring-gai Contributions Plan 2010** by funding additional works with the objective of ensuring 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 consent authority to impose conditions when granting consent to development on land to which this plan applies of a development type to which this plan applies but only if such development is not eligible to be levied under **Ku-ring-gai Contributions Plan 2010**;
- enables the council to recoup funds which it spends on the provision of community infrastructure identified in this contributions plan in anticipation of likely future development contributions;
- provides a framework under which strategies for the provision of additional community infrastructure may be implemented and coordinated;
- provides a comprehensive strategy for the assessment, collection, expenditure, accounting and review of indirect contributions over the life of this s94A indirect 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;
- supports the council in being publicly accountable in its management of the contributions system; and
- facilitates the realisation of the outcomes identified in this Contributions Plan and supporting strategic planning documents.

This indirect s94A Contributions Plan supports the integrated planning of the Ku-ring-gai Local Government Area through the Local Environmental Plans, Development Control Plans, Public Domain Plan and other planning and policy documents guiding the future of Ku-ring-gai.

Ku-ring-gai has two main active Local Environmental Plans being *Ku-ring-gai Local Environmental Plan (Local Centres) 2012* and *Ku-ring-gai Local Environmental Plan 2015* although some areas remain deferred and subject to the older *Ku-ring-gai Planning Scheme Ordinance*.

Alongside the comprehensive *Ku-ring-gai Local Environmental Plan 2015* and its supporting Development Control Plan, this indirect Contributions Plan supports the provision of infrastructure to support small scale incremental but cumulative development around local neighbourhood centres and in more remote suburban areas of Ku-ring-gai.

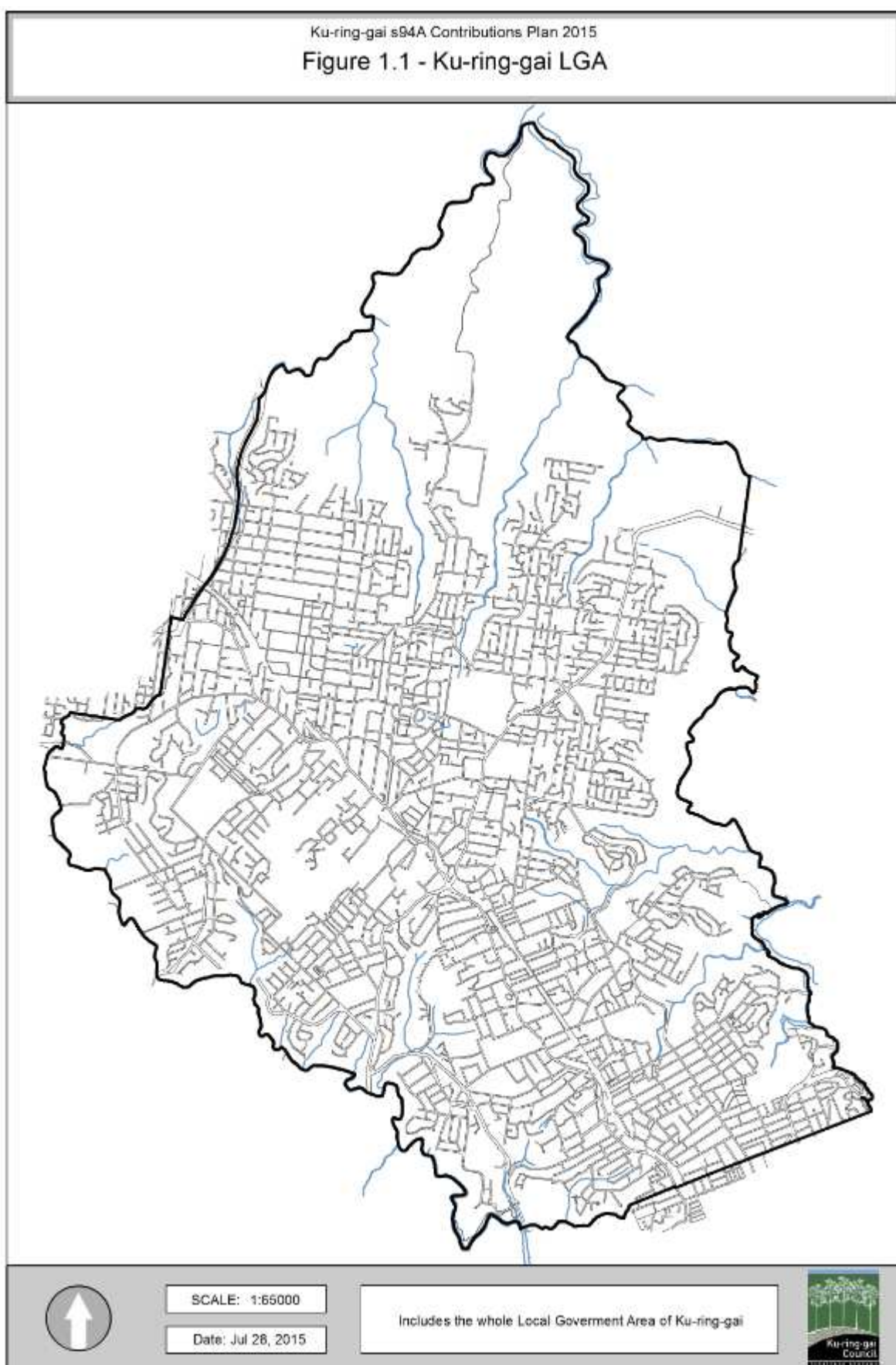
While most development within the local centres, whether zoned under *Ku-ring-gai Local Environmental Plan (Local Centres) 2012* or *Ku-ring-gai Local Environmental Plan 2015*, is subject to **Ku-ring-gai Contributions Plan 2010**, some development may be excluded from the application of direct s94 contributions. In these cases, this s94A contributions plan will apply to that development and support additional works programme items in closer proximity to the centres providing that no one development can be levied under both contributions plans, including mixed use development.

This Contributions Plan concentrates on the potential for public domain improvements to local neighbourhood centres, for improvements to accessibility including intersection improvements, cycleways, and pedestrian friendly environments in areas outside the intensively redeveloping local centres which are supported by a direct contributions plan. The works programme is separate to the works programme in **Ku-ring-gai Contributions Plan 2010**.

1.3 Area to which this s94A Contributions Plan applies

This indirect s94A Contributions Plan applies to all land within the Ku-ring-gai Local Government Area (LGA) (illustrated in Figure 1.1 overleaf), but only in relation to types of development for which **Ku-ring-gai Contributions Plan 2010** does not provide for the imposition of conditions requiring contributions under section 94 of the Act. Development of the type or area to which this s94A plan applies shall not be subject to a condition imposed under section 94 of the Act.

To the extent of any discrepancy, **Ku-ring-gai Contributions Plan 2010** will prevail and will exclude application of this contributions plan to that development.



1.4 Development to which this s94A Contributions Plan applies

This Plan applies to development on land to which this Plan applies that requires development consent or complying development certificate under the *Environmental Planning and Assessment Act 1979 (the Act)* which is of a type listed below and which is not eligible for a direct s94 contribution under **Ku-ring-gai Contributions Plan 2010**.

Development to which this indirect s94A Contributions Plan applies is as follows:

- ✓ The demolition of an existing dwelling and its replacement by a newer dwelling commonly known as a knock down rebuild;
- ✓ Secondary dwellings and granny flats;
- ✓ Alterations and additions to residential dwellings and accommodation excluding additional dwellings;
- ✓ Alterations including refurbishments to business/commercial/retail/sporting & recreational premises where an intensification of use is involved, unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Additional or new floorspace for commercial developments outside the designated Local Centres delineated by catchment maps in **Ku-ring-gai Contributions Plan 2010**;
- ✓ Change of use (subject to the limitations in the regulations);
- ✓ Childcare centres and Kindergartens unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Educational establishments unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Places of Public Worship and associated facilities unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Hospitals and Health Facilities unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;

For the relief of any doubt, it is reiterated that no single development, including mixed use developments, can be subject to more than one type of contribution under both types of contributions plans. In the event a development is subject to a direct s94 contribution under **Ku-ring-gai Contributions Plan 2010**, then the application of this **s94A Contributions Plan 2015** to that application is excluded. For example, a mixed use development in the B2 area of Killara zoned under *Ku-ring-gai Local Environmental Plan 2015* (and outside the designated Local Centres catchment maps in **Ku-ring-gai Contributions Plan 2010**) would be subject to residential contributions under **Ku-ring-gai Contributions Plan 2010** which apply to new residential dwellings across the whole LGA. In that case, no contribution for the commercial component under this contributions plan could lawfully be levied in addition to that residential contribution. A purely commercial development would be subject to contributions only under this Contributions Plan provided it was located outside the designated catchment maps included in **Ku-ring-gai Contributions Plan 2010**.

This list may be altered or amended by legislative changes or s94E Directions. It is intended that the Contributions Plans will be reviewed concurrent with planning to merge *Ku-ring-gai Local Environmental Plan (Local Centres) 2012* and *Ku-ring-gai Local Environmental Plan 2015*.

1.5 Development to which this s94A Contributions Plan does not apply

As outlined above, this contributions plan does not apply to any development to which **Ku-ring-gai Contributions Plan 2010** authorises the imposition of a condition requiring the

payment of direct (s94) development contributions. It may, however, apply to development which is exempted from the payment of direct contributions under that document in particular: knock down rebuilds (where one new dwelling replaces an older existing dwelling), as well alterations and additions both to single dwellings and for the creation of a granny flat or secondary dwelling depending on the capital cost of the proposal assessed in accordance with this Contributions Plan.

The types of residential development to which this contributions plan does not apply include the following types:-

- o New dwellings on vacant lots where no previous s94 contribution under the *Environmental Planning and Assessment Act* has been paid;
- o Dual occupancy development (both attached and detached);
- o SEPP 5 developments; aged and disabled persons developments;
- o Multi dwelling housing, shop top housing, residential flat buildings;
- o Non-private dwellings.

All applications for these types of development above are leviable under the direct s94 Contributions Plan entitled: **Ku-ring-gai Contributions Plan 2010**.

For example, a mixed use development located outside the Local Centres area can be levied direct contributions for the residential component under **Ku-ring-gai Contributions Plan 2010**. Therefore, while it could, in theory, be levied indirect contributions for the commercial component, the legislation precludes both levies being applied. In that circumstance, only the direct contributions relating to the residential component will be applied to that DA and the contributions nominally relating to the commercial component cannot be levied.

A s94E Direction issued on 10 November 2006 also excludes some developments from the application of a s94A levy as follows:

A levy under section 94A of the Act cannot be imposed on development:

- (a) for the purpose of disabled access,
- (b) for the sole purpose of affordable housing,
- (c) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
- (d) for the sole purpose of the adaptive reuse of an item of environmental heritage, or
- (e) other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.

Lastly this indirect s94A Contributions Plan does not apply to the delivery of works by Council for the benefit of the community.

1.6 Merit exemptions from the application of this s94A 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 like¹;
- 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;
- Development, or part of a development, where it may be unclear but can be reasonably argued that the nature of the work or the nature of the proposal could fall within the categories of works excluded by clause 25J of the Regulations; 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, should not be subject to the imposition of an indirect contribution levy. **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 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 application as a whole. In considering any application for an exemption the Council will also take into account the extent to which the proposed development comprises or includes the provision, extension or augmentation of public amenities or public services that provide a public benefit, and/or whether the applicant is affected by any adverse financial circumstance which will impact on its ability to fund the payment of any contribution or levy which is imposed in accordance with this indirect Contributions Plan.

This merit assessment process cannot be undertaken by a consent authority other than council. In the case of a development where the consent authority is a JRPP, then it will be necessary for Council to make a prior determination on this matter.

1.7 Relationship to Ku-ring-gai Contributions Plan 2010

This indirect **Ku-ring-gai s94A Contributions Plan 2015** does not affect the continued operation of the direct s94 Contributions Plan known as **Ku-ring-gai Contributions Plan 2010**. This contributions plan operates in parallel to the existing direct contributions plan

¹ This provision is not intended to include corporate headquarters of any type.

applying to different types of development and facilitating a separate works programme. No single development can be the subject of a consent condition relating to both this contributions plan and **Ku-ring-gai Contributions Plan 2010**.

In the case of any development being potentially subject to both **Ku-ring-gai Contributions Plan 2010** and this document, then **Ku-ring-gai Contributions Plan 2010** takes precedence over **Ku-ring-gai s94A Contributions Plan 2015**.

1.8 How are indirect s94A Contributions derived?

This Plan authorises the Council to grant consent to development to which this Contributions Plan applies, subject to a condition requiring the applicant to pay a levy to Council, being 0.5% or 1% of the proposed cost of carrying out the development, as outlined in the table below:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil (0%)
\$100,001 - \$200,000	0.5 percent (0.5%)
More than \$200,000	1.0 percent (1%)

Conditions authorised by this Plan are subject to any direction given by the Minister under s94E of the Act from time to time, and this Plan authorises the imposition of conditions which are in accordance with any such direction.

Any direction given by the Minister under s94E of the Act and in force from time to time may be attached to this Contributions Plan or imposed over the top of a contribution authorised by this plan in such a manner as to affect the levying of that contribution, but does not form part of this Contributions Plan for the purposes of the Act.

Instructions on the methodology for determining the cost of development appear later in this document.

1.9 Complying Development

This Plan authorises a certifying authority (the Council or an accredited certifier) to issue a complying development certificate in respect of development to which this Plan applies subject to a condition requiring the applicant to pay the Council a levy of 0.5% or 1% of the proposed cost of carrying out the development, as outlined in table below:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil (0%)
\$100,001 - \$200,000	0.5 percent (0.5%)
More than \$200,000	1.0 percent (1%)

In accordance with section 94EC(1) of the Act, where a certifying authority (the council or an accredited certifier) issues a complying development certificate in respect of development where that development meets the criteria set down in this Contributions Plan, the certificate must be subject to a condition requiring the applicant to pay to the Council the contribution in accordance with this Plan. In the event further clarity is required, accredited certifiers are asked to 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.² Third parties are advised to refer to the Department of Planning website to ascertain the current status of all s94E Directions. Any direction given by the Minister under s94E of the Act and in force from time to time may be attached to this Contributions Plan or imposed over the top of a contribution authorised by this plan in such a manner as to affect the levying of that contribution, but does not form part of this Contributions Plan for the purposes of the Act.

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

1.10 Construction Certificates

For the purpose of clause 146 of the Regulation, a certifying authority (the Council or Accredited Certifier) 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 accordance with the condition of consent.

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 concurrent to the provision of other documents required under clause 142(2) of 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.

² Planning Circular 09-020 issued 21 July 2009 entitled: Complying development – accredited certifiers to follow Minister's directions on development contributions.

1.11 Determining the proposed cost of development

Clause 25J of the *Environmental Planning and Assessment Regulation 2000* sets out how the proposed cost of carrying out development is to be determined. That clause provides as follows:

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:
 - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,
 - (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,
 - (c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.
- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.
- (3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:
 - (a) the cost of the land on which the development is to be carried out,
 - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,
 - (c) the costs associated with marketing or financing the development (including interest on any loans),
 - (d) the costs associated with legal work carried out or to be carried out in connection with the development,
 - (e) project management costs associated with the development,
 - (f) the cost of building insurance in respect of the development,
 - (g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),
 - (h) the costs of commercial stock inventory,
 - (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,
 - (j) the costs of enabling access by disabled persons in respect of the development,
 - (k) the costs of energy and water efficiency measures associated with the development,
 - (l) the cost of any development that is provided as affordable housing,
 - (m) the costs of any development that is the adaptive reuse of a heritage item.
- (4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.

- (5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.

Please note that it is the applicant's responsibility in submitting the detailed cost report or Quantity Surveyors Report as applicable to provide adequate information to ensure that components of the proposal listed above can be excluded from the total on which the percentage levy is calculated e.g. disabled access, energy and water efficiency, etc.

Clause 25J(3)(i) notes that taxes, levies and charges do not form part of the cost of development with the exception of GST.

1.12 Cost estimate reports must accompany all applications

A development application or an application for a complying development certificate is to be accompanied by a report, prepared at the applicant's cost, setting out an estimate of the proposed cost of carrying out the development for the purposes of clause 25J of the Regulation.

The following types of report are required:

- ✓ Where the estimate of the proposed cost of carrying out the development is less than \$500,000 - a cost summary report in accordance with Schedule 1 in the Appendices;
- ✓ Where the estimate of the proposed cost of carrying out the development is \$500,000 or more - a detailed cost report in accordance with Schedule 2 in the Appendices.

1.13 Approved persons must prepare cost estimate reports

Clause 25J(2) of the Environmental Planning and Assessment Regulation provides as follows:

- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.

For the purpose of this subclause, the following persons are approved by the Council to provide an estimate of the proposed cost of carrying out development as follows:

- ✓ Where the proposed development cost is less than \$500,000 - a person who, in the opinion of the Council, is suitably qualified to provide a cost summary report;
- ✓ Where the proposed development cost is \$500,000 or more - a quantity surveyor who is a registered member of the Australian Institute of Quantity Surveyors to provide a detailed cost report.

Upon reviewing a cost summary report or detailed cost report, the Council may, at the applicant's cost, require a further estimate to be provided by a registered quantity surveyor, or the Council may, at the applicant's cost, engage a person referred to in this clause to review a report submitted by an applicant.

1.14 Auditing cost estimate reports

Cost estimate reports may also be also subject to periodic random audit by a Quantity Surveyor appointed by the Council in the context of Council's annual auditing processes.

1.15 Calculating the indirect contribution

Indirect s94A contributions are calculated based on the cost of development as established in the sections above. The formula for calculating the contribution payable is as follows:

$$\text{\$Contribution} = \% \times \text{\$Cost of Development}$$

Where:

$\text{\$Contribution}$ is the contribution payable at the time of determination

$\%$ is the percentage applicable based on the cost of development (0%, 0.5% or 1%)

$\text{\$Cost of Development}$ is the proposed cost determined as set down in this plan.

Note: In the event that a cost estimate or cost report (as applicable) prepared at the applicant's cost is not submitted to Council in such a manner as to enable Council to determine the appropriate contribution, this will be obtained by Council and the applicant will be liable to reimburse Council for that cost.

1.16 How is the proposed cost of carrying out development indexed?

In accordance with clause 25J(4) of the Regulation and, for the purposes of this Plan, the proposed cost of carrying out development is to be indexed to reflect quarterly variations in the Consumer Price Index, All Group Index Number for Sydney between the date the proposed cost was determined by Council and the date the levy is paid.

The formula governing indexation of the proposed cost of carrying out development is as follows:

$$\text{IDC} = \text{ODC} \times \text{CP2/CP1}$$

Where:

IDC = the indexed development contribution payable

ODC = the original development contribution determined by the Council as a percentage of the cost as set down in this contributions plan

CP2 = the quarterly Consumer Price Index, All Groups, Sydney, as published by the ABS immediately prior to the date of payment

CP1 = the quarterly Consumer Price Index, All Groups, Sydney as published by the ABS immediately prior to the date of imposition of the condition requiring payment of the contribution.

The Consumer Price Index (CPI) is usually issued by the Australian Bureau of Statistics towards the end of the month following the quarter as follows:

June Quarter CPI – issued towards the end of July

September Quarter CPI – issued towards the end of October

December Quarter CPI – issued towards the end of January

March Quarter CPI – issued towards the end of April.

Contributions payable will be inflated quarterly overnight following the release of the index and the revised amount will be payable from start of business the day following the release of the index. Applicants should budget for an increase in the contributions due and payable around these times. Contributions will continue to inflate until they are paid.

1.17 When are the indirect Contributions payable?

An indirect s94A contribution is required to be paid by a condition authorised by this Plan must be paid to the Council at the time specified in the consent condition. If no time is specified, the contribution must be paid in accordance with the criteria below.

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 staged³ 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 and provided separate cost reports to enable this to occur. 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.⁴
- **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. 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.

³ 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.

⁴ 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.

1.18 Pooling of contributions

For the purpose of section 93E(2) of the Act, this s94A Contributions Plan authorises contributions obtained from conditions applied under this Contributions Plan paid in respect of different developments, to be pooled and applied by the Council progressively towards the public facilities listed in the Works Programme in accordance with the prioritisation methodology specified in this plan and the estimated staging set out in the Works Programme.

1.19 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.

1.19.1 Monetary Contributions

The monetary contribution is the most common means of satisfying a condition of consent requiring a development contribution. In the case of contributions arising from small scale development, there will be limited scope for any works-in-kind or material; public benefit and it is generally expected that such contributions will be in the form of a monetary payment.

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.

1.19.2 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* which is due for revision and is expected to be exhibited before the end of 2015. Applicants should access Council's website to ensure they have the most up-to-date policy.

1.19.3 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.

1.19.4 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.

1.19.5 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.

1.20 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 of 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.

1.20.1 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 **1.17 When are the indirect contributions payable?**⁵

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.

1.21 Application of contributions obtained under this plan

Monetary contributions paid to the Council under a condition authorised by this Plan are to be applied by Council towards meeting the cost of one or more of the public facilities that will be, or have been, provided within the area as listed in the Works Programmes at the end of this document.

⁵ 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.

1.22 Prioritising allocation of expenditure

Subject to section 93E(2) of the Act, the public facilities listed in the Works Programme are generally to be provided in accordance with the staging set out therein. Further details on the methodology for prioritising the works programme is contained in Part 2 of this s94A Contributions Plan.

1.23 Policy on Grants, Levies and Other Income

Ku-ring-gai Council recognises that capital works funded by development contributions and by the grants system generally are to be mutually exclusive however contributions and grants and/or levies may collectively make up a total funding strategy to provide a work of a higher quality or greater extent or both than would have been possible using only source of funding. It is also possible to combine funding sources to bring forward works that otherwise could not have been instigated until some years after the receipt of partial funding. This policy facilitates the delivery of community infrastructure in the most efficient and timely manner and is considered consistent with government policy.

Ku-ring-gai Council always allocates the total monetary amount of all grants, all levies and all contributions for the publicly identifiable infrastructure relied upon to seek that funding. No part of any grant, levy or contribution sought for – and tied to – the provision of future infrastructure goes into consolidated revenue. Council maintains a number of Restricted Asset accounts for these purposes to ensure good management and transparency.

In the interests of clarity, works beyond the scope of baseline works that are 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 outdoor furniture in parks or in neighbourhood centres and/or more extensive or higher quality public domain improvements, embellishments, planting, lighting, street furniture and the like. A more extensive playground, catering to a wider range of ages, and/or utilising environmental water features, would be a work that could be expanded and improved by additional funding in a manner that would not have been possible for the benefit of the wider community.

Ku-ring-gai Council may also utilise grants or levies for projects valued in this Contributions Plan if considered necessary to make up for any unforeseen short-fall in contributions that were anticipated either in quantum or in timing to maintain an active rolling works programme.

Within the scope of grants or levies, e.g. environmental levies, there are a range of works which are intended to be funded over a long period of time. If there is any conflict between grant funding and contributions funding, there will be an opportunity for Ku-ring-gai Council to undertake additional works that would not otherwise have been possible.

1.24 Monitoring and Review

This plan is intended to provide for development until 2031 in parallel with the concurrently operating direct contributions plan known as *Ku-ring-gai Contributions Plan 2010*.

It is envisaged that future reviews for each plan will take place concurrently in the future to ensure that both types of contributions plan remain both complementary and mutually exclusive. A typical trigger for review of the direct contributions plan is the release of new census information or the implementation of a new Sub-Regional Plan.

Note: 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.

1.25 Definitions

This indirect s94A Contributions Plan adopts the definitions from the standard template LEP and Ku-ring-gai's Development Control Plans with the following additions:

In this Plan unless the context or subject matter otherwise indicates or requires:

ABS means the Australian Bureau of Statistics

Applicant means a person or organisation submitting an application seeking the approval of development.

Consumer Price Index means the All Group Sydney Quarterly Consumer Price Index

Contribution means, for this contributions plan, an indirect contribution under s94A of the Act.

Council means Ku-ring-gai Council

Development has the meaning under Section 4 of the Act which, in relation to land, means:

- (a) the use of land;
- (b) the subdivision of land;
- (c) the erection of a building;
- (d) the carrying out of a work;
- (e) the demolition of a building or work; and/or
- (f) any other act, matter or thing controlled by an EPI

Drainage means any activity which intentionally alters the hydrological regime of any locality by facilitating the removal of surface or groundwater.

Levy has the same meaning as a contribution under section 94A of the Act authorised by this plan except where it specifies a different type of levy

LGA means the local government area

Material public benefit means a facility or work which is offered by a developer as a finished entity either in return for a reduction in the amount of monetary contributions required or as an additional or partial additional benefit under a Planning Agreement.

Minister means the Minister administering the *Environmental Planning and Assessment Act 1979*

Public facility means a public amenity or public service or public infrastructure

Social Housing Providers *State Environmental Planning Policy (Affordable Rental Housing) 2009* defines Social Housing Providers⁶ 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.

Act means the *Environmental Planning and Assessment Act 1979*

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Road has the same meaning as in the *Local Government Act* and includes a highway, street, lane, pathway, footpath, cycleway, thoroughfare, bridge, culvert, causeway, road-ferry, ford, crossing, by-pass and trackway, whether temporary or permanent, any part thereof and any thing forming part of these. As such, 'road' includes the entire road reservation in the public domain between property boundaries (being the private domain) inclusive of footpaths and nature strips and any structure located on them. The term Local Roads includes the term road.

Works in kind means the carrying out of work which is identified in the costed works schedules which form part of this contributions plan in return for a reduction in the amount of monetary contributions (but not a reduction in the total quantum of contributions) required for the same category of contribution.

⁶ 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.

Part 2: Expected development & demand for infrastructure

2.1 Development potential anticipated in the Ku-ring-gai LGA

Ku-ring-gai's 2014 Estimated Resident Population was 120,978. There has been a steady increase in population from the 2006 census as follows:

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
104,459	105,551	107,976	110,464	112,643	114,604	116,596	119,006	120,978	Expected

While much of the growth in new residential population is focussed on new medium to high density development around the centres as well as new dwellings on vacant lots and dual occupancies, there is also growth arising from the cyclical population renewal as older residents downside and newer purchasers, who are typically younger families, renew, upgrade and extend their dwelling houses.

As the area continues to renew, retail and commercial development in the neighbourhood centres becomes a realistic potential area of development for which this contributions plan needs to allow.

The two parts of the Killara neighbourhood business areas in particular, in Marian Street and along parts of the Pacific Highway, the latter located between two of the key local centres of Lindfield and Gordon, is likely to experience redevelopment pressure as a flow on effect from the adjoining centres.

Other, mid-range, neighbourhood centres also have some potential for expansion. Additionally, with the scope for private parties to lodge Planning Proposals for innovative development, provides justification for an indirect contributions plan that allows such development to support the neighbourhood centres, parks and local public domain in its locale.

Ku-ring-gai s94A Contributions Plan 2015, being an indirect Contributions Plan, is intended to relate to development types that are not identified for levies under **Ku-ring-gai Contributions Plan 2010**. Like that direct Contributions Plan, this indirect Contributions Plan applies to the whole of the Local Government Area of Ku-ring-gai, but operates mutually exclusively to **Ku-ring-gai Contributions Plan 2010** by applying to different development and funding different works.

2.2 Sources of demand arising from capital investment in the private built environment in the Ku-ring-gai LGA

The relationship between expected development and the demand for Key Community Infrastructure is established through:-

- ✓ Increased investment in private sector developments including the rebuilding and expansion of developments creating community demands and expectations for increased and improved investment in public facilities.

- ✓ Substantial increased investment by private individuals including the rebuilding and expansion of individual dwelling houses creates community demands and expectations for increased and improved investment in public facilities.
- ✓ Increasing floorspace through alterations and additions, knock-down rebuilds and secondary dwellings / granny flats, has the potential to increase the population and place a demand on local facilities and infrastructure. The investment in the quality of the new dwelling has the capacity to influence perception of the quality of the public domain and create pressure for improvements.
- ✓ Increasing non-residential floorspace through alterations and additions or new construction works in local neighbourhood centres acts as an attractor to the local area and increases demand for supporting infrastructure.
- ✓ Increasing investment in revitalising non-residential floorspace through changes of use or substantial internal refurbishments.

This 'indirect' s94A contributions plan seeks to impose a condition requiring a contribution on development that is currently not subject to a contribution under the 'direct' s94 Plan known as **Ku-ring-gai Contributions Plan 2010**. The main contributions plan relates chiefly to large scale intensive redevelopment in the local centres along the Pacific Highway and Northern Railway line and in St Ives. It also applies to residential development where nett additional dwellings are delivered.

Ku-ring-gai Contributions Plan 2010, currently does not apply to other types of development that increase the demand in the Local Government Area including non-residential development in the neighbourhood centres away from the Local Centres areas (defined by catchment maps in that plan) and on isolated business sites (such as the former UTS, CSIRO, Acoustic Laboratories, SAN hospital and the like) and some of the recent business areas zoned under *Ku-ring-gai Local Environmental Plan 2015* (notably in Killara and Turramurra-Wahroonga).

Lastly, urban renewal is an on-going process. Larger modern dwellings replace older cottages, alterations and additions enlarge and enhance existing houses. Part of the value of a dwelling house comes from the urban environment in which it is situated, particularly in higher socio-economic areas like Ku-ring-gai. Urban renewal of local streets, neighbourhood shopping areas and local village centres is a parallel part of the on-going renewal of existing residential dwelling stock.

2.3 Nature of demand arising from capital investment in the private built environment in the Ku-ring-gai LGA

Ku-ring-gai is a Local Government Area in cyclical renewal. Formerly described as an 'ageing' area, it still features a higher percentage of residents in the older age cohorts. In recent years, the redevelopment of the local centres areas along the Northern Railway line / Pacific Highway corridor and St Ives, has assisted older residents in down-sizing to smaller accommodation and ageing in place. This has released existing single dwellings for occupation by new families, often with school-aged children. This process also gives rise to population increases, and supports the on-going process of extending and replacing older dwelling stock.

Larger dwellings increase the potential for new residents, either immediately or when the dwelling is on-sold – without the scope for direct contributions. Indirect contributions reflect the urban renewal process on a community scale and enable investment into the local neighbourhood centre.

With the likely population growth and change, provision will need to be made for additional or improved public facilities to meet additional demand. As the likely population growth will diminish the enjoyment and standards of public facilities for the existing population, these additional or improved facilities are to address demand. A range of public facilities are required to be provided or improved to meet residential development demands; including open space provision, improvement and embellishment, community and cultural facilities, public domain and town centre improvements, transport, access and mobility improvements such as for walking, cycling, public transport and private vehicles, and environmental improvements. Commercial developments raise demands for public facilities, primarily for public domain and town centre improvements, cultural facilities, and transport, access and mobility improvements. Mixed use developments and recreation and tourism related developments raise similar demands for public facilities as both residential and commercial development. Public facilities required to meet the demands of Industrial development primarily include transport, access and mobility improvements and environmental improvements.

The in-fill development in and around the neighbourhood centres is expected to create additional demands for public transport support measures and public domain improvements. These include pedestrian-friendly streets, new urban plazas, improved parking and access including intersection treatments and cycle facilities.

2.4 Overview of the works programme

Section 94A contributions required by a condition of consent under this contributions plan will be applied towards the provision, extension or augmentation of the following types of Key Community Infrastructure. A complete and prioritised works programme follows this section.

- ✓ Local roads – including local road extensions, local road widening, intersection improvements and upgrades, streetscape improvements outside the designated local centres such as neighbourhood centres including street furniture and plantings, and the like;
- ✓ Local bus facilities – including local stops and associated infrastructure such as shelters, bicycle interchange facilities and the like;
- ✓ Local parks – being works to existing parks that are not listed in **Ku-ring-gai Contributions Plan 2010**⁷;
- ✓ Local sporting, recreational and cultural facilities that are not supported by the **Ku-ring-gai Contributions Plan 2010** particularly neighbourhood facilities;
- Local car parking facilities;

⁷ Ku-ring-gai Contributions Plan 2010 relates mainly to the provision of completely new parks although it also includes works to specifically identified existing parks that, by their geographic location, provide a facility supporting the intensive redevelopment in that Local Centre but require upgrading to cope with that more intensive use and/or otherwise suited to serving a larger catchment than the immediate environment. Ku-ring-gai Contributions Plan 2010 also includes sportsfields. All other existing open space areas which are not supported by the direct contributions plan can be supported by the indirect contributions plan subject to availability of funding and specified priorities.

2.4.1 Public Domain improvements for Neighbourhood centres

The local centres along the Pacific Highway and in St Ives are well supported by extensive public domain improvement plans both required by - and supported by direct contributions from - the intensive redevelopment taking place around the railway stations and St Ives Local Centre.

By comparison, the smaller-scale neighbourhood centres, which support a smaller local population, have not been the subject of village improvements - primarily inhibited by a lack of adequate funding. Two pilot projects: Phillip Mall in West Pymble and Princes Street shops in Turramurra indicated what could be achieved in terms of local revitalisation.

2.4.2 Local parkland improvements

Ku-ring-gai has an extensive network of local parks, many of which are located in the suburban redevelopment areas of the 1960s through to the 1980s remote from the central spine of the railway line and Pacific Highway. These parkland assets are not the subject of direct contributions under **Ku-ring-gai Contributions Plan 2010** from predominantly centres based development due to a lack of causal and geographic nexus. Many are not funded from other sources such as budget allocations or grants. In many cases a budget allocation is required to match grants and without this funding grants cannot be sought.

Many community facilities such as playgrounds, parks and neighbourhood shopping centres are degraded and a small capital investment - such as from the indirect contributions under this Contributions Plan - can embellish and improve the asset entirely or until future funding for major upgrades becomes available.

Scattered development in the form of investment in new, improved and enlarged dwellings through knock-down rebuilds and extensive alterations and additions, is occurring through the process of cyclical population renewal as older people downsize from single dwellings into apartments and families return to the area. This process gives rise to the increased likelihood of changing demands in the design and facilities available in existing parks. For example, there is an increased demand for facilities for young people (teenagers) and younger children in existing parks.

Playgrounds cater for our children and the health and well-being of future generations and have a high capital cost, high replacement cost and a significant maintenance cost. Available funding in the Long Term Financial Plan provides only sufficient budget for one relatively small playground upgrade of approximately \$170,000 per annum. At current funding levels this will only allow each playground to be upgraded every 100 years, which is an untenable situation which underlines the importance of additional funding through indirect contributions. Given that the average lifespan of a typical playground is in the order of 15 years, the current funding levels would need to be increased at least sixfold to upgrade or renew each playground in Ku-ring-gai.

Parks with adopted master plans that itemise works to be staged over a ten year period raise community expectation for implementation of improvements based on intensive community consultation and support. Funding is required to achieve the agreed and desired outcome of an improved park: to be available to a greater number of users; provide experiences for greater variety of recreation and leisure activities; incorporate elements that are important to the community and user groups; integrate sustainable principles into

park design; and provide a holistic approach to design that allows for improvements to occur in stages as funding becomes available.

Without a funding source for these works, the adopted master plans cannot be implemented and two district parks – Roseville Park and Queen Elizabeth Reserve Lindfield – are not funded at all by **Ku-ring-gai Contributions Plan 2010**.

A masterplan for Roseville Park was adopted by Council in 2015, yet no funding is available in the Long Term Financial Plan (LTFP) until 2017/18, when \$570,000 has been allocated through the infrastructure and facilities reserve. This will only cover a small number of the highest priority items in the master plan. At least \$4 million is needed to implement most of the high priority items.

Council's two regional parks, Ku-ring-gai Bicentennial Park and St Ives Showground, both have master plans and plans of management that have been adopted by Council within the last 4 years, however each park has only a small funding allocation in the LTFP to implement important improvements. Significant additional funding is required to implement most of the work that is listed in the adopted plans for these parks.

Indirect contributions under this Contributions Plan can also assist to provide barrier-free universal access where possible for implementation of Council's *Access and Disability Inclusion Plan 2014 – 2018*. These playgrounds, parks and neighbourhood shopping centres, are outside the catchment of the Local Centres and are, therefore, not the subject of contributions under **Ku-ring-gai Contributions Plan 2010**. Unlike sports facilities, these land assets have little or no income generation potential.

2.4.3 Intersection Treatments, Traffic, Cycle and Pedestrian Improvements

All development that intensifies demand challenges accessibility. It is unreasonable to expect the existing population to suffer cumulative reduction in accessibility and amenity as a result of population growth arising from increased investment in housing and businesses through development.

The works programme embraced by the term local roads, is essential to maintain the accessibility within and around Ku-ring-gai. Both when development is small-scale but scattered and when single unanticipated larger scale developments occur outside core centres, the traffic impact may not be apparent ahead of time. As such, this contributions plan costs generic traffic works of the type typically retro-fitted to the existing road network to improve the level of service. The locations cannot be anticipated ahead of development but works will be prioritised as required as part of Ku-ring-gai's on-going active monitoring of the level of service of roads and intersections in the LGA.

2.5 Prioritisation of the works programme

The works listed in this schedule may be funded from a mix of sources, not limited to contributions collected from this Plan. For many of these works, s94A contributions will be a relatively small but vital part of funding the whole. Additional funding may come from general revenue or other levies (such as the Environmental Levy) where appropriate.

The proposed works programme under this indirect s94A Contributions Plan will be prioritised and staged to match the rate and location 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 indirect s94A Contributions Plan.

“M” being “Medium term” means between five and ten years from the date of adoption of this indirect s94A Contributions Plan.

“I” being “Intermediate term” means between ten and fifteen years from the date of adoption of indirect s94A Contributions Plan.

“L” being “Longer term” means more than fifteen years from the date of adoption of this indirect s94A 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. Due to the smaller scale nature of development under an indirect Contributions Plan, this option is likely to have limited application for works proposed to be funded by this document.

2.6 Additional prioritisation criteria for the neighbourhood centres revitalisation programme

As identified by Council as part of the adoption of the Neighbourhood Centres Improvement Programme, the following additional criteria apply to the determination of priority for these works:

- ✓ Level of Use
- ✓ Parking Area / Availability of parking
- ✓ Overall condition / asset condition
- ✓ Accessibility to the centre
- ✓ Accessibility within the centre
- ✓ Accessible premises
- ✓ Special features / unique character
- ✓ Visual and streetscape impact
- ✓ Types of retail premises, attractors for regular local use
- ✓ Engagement of stakeholders, especially shopkeepers / Chamber of Commerce
- ✓ Potential for a village green / additional parkland

As for all works wholly or partly funded by contributions, priority will also be influenced by geographic nexus. For example a larger retail or commercial development in or near a local neighbourhood centre would support the higher prioritisation of contributions under this contributions plan to that centre.

2.7 Additional prioritisation criteria for the local parks and playgrounds revitalisation and capital improvement programme

Ku-ring-gai Council manages 102 playgrounds, 235 Parks on Community land, and 15 neighbourhood shopping centres. This number of facilities is not fixed, as land is periodically acquired and additional facilities added; and occasionally degraded facilities are removed or disposed of. To determine the priority of each asset for funding, prioritisation matrices have been developed to allocate a weighting for a number of important criteria.

This prioritisation is annually reviewed to ensure the sites of most need are receiving resources. These criteria are used to determine a priority for works requiring capital funding. A summary of prioritisation criteria for the evaluation of Council's playgrounds, parks and neighbourhood shopping centres is listed in the works programme.

- ✓ Level of Use / increasing use, community expectation
- ✓ Parking Area / Availability of parking
- ✓ Overall condition / asset condition
- ✓ Accessibility to the park – is it easily findable? Transport availability and facilities?
- ✓ Accessibility within the park – e.g. Barriers, Fences, Paths, Gates
- ✓ Accessibility compliant with DDA – potential to achieve this?
- ✓ Special features / unique character
- ✓ Visual and streetscape impact / visibility, lighting
- ✓ Types of retail premises, attractors for regular local use
- ✓ Engagement of stakeholders, especially shopkeepers / Chamber of Commerce
- ✓ Potential for a village green / additional parkland

Works Programmes

The following pages are the works programmes for all the Key Community Infrastructure that targeted to be supported – wholly or partially – by indirect development contributions under this s94A Contributions Plan. This section also includes location maps where the proposed location of work is identifiable as a geographically specific project.

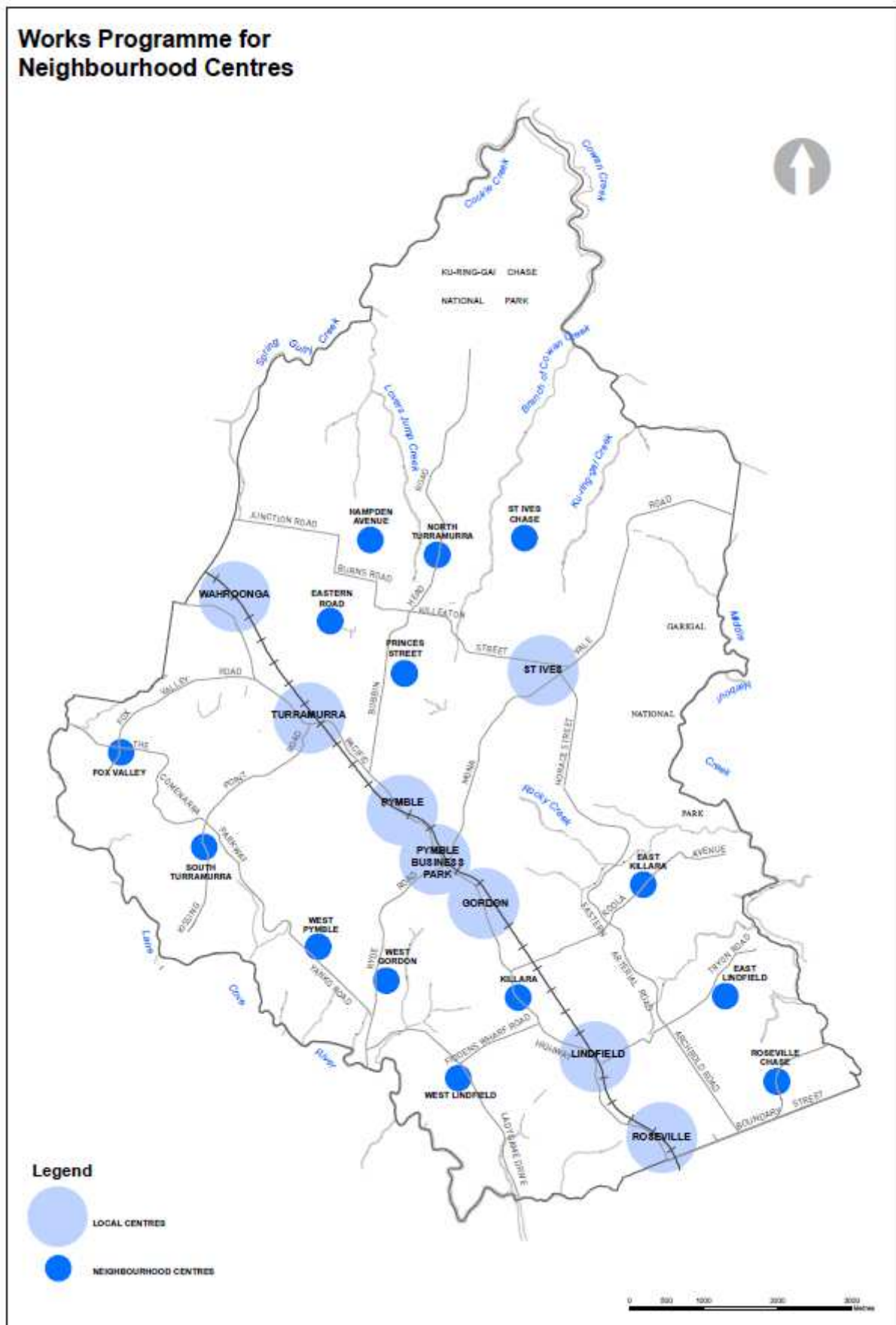
Neighbourhood Centres Revitalisation Programme

Location	Streets	Description	Estimated Cost	Priority / Timing (SMILE)	Notes
East Killara	Koola Avenue	Refurbish landscaped area surrounding car park	\$50,000	7 / I	Majority strata-owned
East Lindfield	Wellington Road	New seats, link paths, paving, picnic tables, shelters, planting, drainage	\$210,000	9 / L	
Fox Valley	Fox Valley Road	Establish landscape areas, street furniture, improve accessibility	\$100,000	4 / M	Will be deferred until precinct development & high school completed
Killara	Pacific Highway	Furniture, planters	\$25,000	2 / S	Will be deferred until future development at rear of shops
Killara Village	Marian Street	Improve access, planters	\$75,000	3 / S	Will be deferred and considered with Marian Street Theatre and Culworth car park works
North Turramurra	Bobbin Head Road	Paving, planting (eastern side),	\$35,000	11 / L	
Roseville Chase	Babbage Road	Refurbish gateway site with paving, planting, access, signage, drainage	\$350,000	1 / S	
South Turramurra	Auluba Road & Kissing Point Road	Embellish parkland in front of shops, furniture, shelter, planting	\$150,000	10 / L	
St Ives Chase	Warrimoo Avenue / The Mall Shops	Access link to park, parking, ramp, planting	Currently funded \$242,000	Underway / S	Strata-owned building
Turramurra	Eastern Road	Refurbish planted areas, improve accessibility, furniture, paving and signage	\$300,000	5 / M	

Location	Streets	Description	Estimated Cost	Priority / Timing (SMILE)	Notes
Turramurra	Princes Street	Completed 2014 - included to demonstrate KMC's commitment to this works programme.	NA	Complete	Not under recoupment
West Gordon	Duneba Avenue	Furniture, planting, signage (including Ryde Road)	\$55,000	8 / I	
West Lindfield	Moore Avenue	Furniture, planting, paving, heritage interpretation for Broadway	\$100,000	6 / M	
West Pymble	Kendall Street / Phillip Mall	Completed 2013 - included to demonstrate KMC's commitment to this works programme.	NA	Complete	Not under recoupment

The completed works in this programme are listed solely for the purposes of demonstrating that Ku-ring-gai Council is committed to a rolling works programme of Neighbourhood Centre delivery; and are not under recoupment.

For the relief of any doubt, it is noted that, in some cases, a total project budget may be made up of other sources of funding in addition to contributions, particularly where environmentally sensitive design is an integrated facet of the proposal. Ku-ring-gai Council allocates all funding for the purposes for which it was sought by the use of restricted assets and the Long Term Financial Plan. Additional available funding serves to expand the scope, geographic extend and/or physical quality of any nominated work and/or to bring forward a work in the works programme to an earlier date than would otherwise have been possible.



Local and larger parks and playgrounds revitalisation and improvement programme

Location and priority to be determined in accordance with the criteria set down in this Contributions Plan.

Playgrounds		
Description	Estimated Cost	Estimated Timing
Small playground	\$100,000	Determined by the priority listing in this contributions plan as income permits.
Medium playground	\$300,000	
Large playground	\$500,000	

Capital works to larger parks			
Park	Description	Estimated total cost	Priority / Timing (SMILE)
Roseville Park	Works under the Masterplan 2015	\$4,000,000	High priority but staged: S - M
Environmental and Cultural Centre at Wildflower Garden	Multi-purpose cultural and environmental education facility at the Ku-ring-gai Wildflower Garden site in St Ives. Additional funding to supplement environmental levy funds to extend and enhance the community benefit and bring forward the project.	\$1,000,000 (partial only)	S

Intersection Improvements as needed

It is not always possible to foresee the consequential cumulative impact of unforeseen or scattered development. In the event of developments which are subject to a contribution under this plan giving rise to the need for street works and intersection upgrades on streets or intersections that do not immediately adjoin the subject site, then these cost estimates provide scope to instigate such works to address the impacts of development, cumulative or otherwise.

Description	Estimated Cost	Estimated Timing
New traffic signals at intersection	\$350,000;	Determined by traffic counts at intersections proximate to cumulative development.
New roundabout at intersection	\$150,000;	
New pedestrian refuge	\$15,000;	
New raised pedestrian crossing	\$40,000;	

Cost of Management

It is intended that any additional costs incurred by Council as part of the preparation, administration, financial management, maintenance, auditing, compliance and review of the indirect Contributions Plan will also be funded by contributions. This may include the cost of studies, research and investigations, consultancies and employee costs. For these purposes an amount of up to 5% of the total of the contributions received may be charged to the Plan.

Schedules and Appendix

Schedule One: Sample Cost Summary Report

Schedule Two: Sample Quantity Surveyors Report

Schedule Three: s94E Direction and accompanying circular

Appendix One: Table of Developments by type and Location

Schedule 1: Cost Summary Report

Development Cost no greater than \$ 500,000

DEVELOPMENT APPLICATION No: _____	Reference: _____
COMPLYING DEVELOPMENT CERTIFICATE APPLICATION No: _____	
CONSTRUCTION CERTIFICATE No: _____	Date: _____
APPLICANTS NAME: _____	
APPLICANTS ADDRESS: _____	
DEVELOPMENT NAME: _____	
DEVELOPMENT ADDRESS: _____	

ANALYSIS OF DEVELOPMENT COSTS:

Demolition and alterations	\$	Hydraulic services	\$
Structure	\$	Mechanical services	\$
External walls, windows and doors	\$	Fire services	\$
Internal walls, screens and doors	\$	Lift services	\$
Wall finishes	\$	External works	\$
Floor finishes	\$	External services	\$
Ceiling finishes	\$	Other related work	\$
Fittings and equipment	\$	Sub-total	\$

Sub-total above carried forward	\$
Preliminaries and margin	\$
Sub-total	\$
Consultant Fees	\$
Other related development costs	\$
Sub-total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate;
- calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices; and
- Included GST in the calculation of development cost.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____

Schedule 2: Registered* Quantity Surveyor's Detailed Cost Report

DEVELOPMENT APPLICATION No: _____	Reference: _____
COMPLYING DEVELOPMENT CERTIFICATE APPLICATION No: _____	
CONSTRUCTION CERTIFICATE No: _____	Date: _____
APPLICANTS NAME: _____	
APPLICANTS ADDRESS: _____	
DEVELOPMENT NAME: _____	
DEVELOPMENT ADDRESS: _____	

DEVELOPMENT DETAILS:

Gross Floor Area - Commercial	m ²	Gross Floor Area – other	m ²
Gross Floor Area – Residential	m ²	Total Gross Floor Area	m ²
Gross Floor Area – Retail	m ²	Total Site Area	m ²
Gross Floor Area – Car Parking	m ²	Total Car Parking Spaces	
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

ESTIMATE DETAILS:

Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per square metre of site area	\$ /m ²
% of Construction Cost	%	Car Park	\$
Demolition and Site Preparation	\$	Cost per square metre of site area	\$ /m ²
Cost per square metre of site area	\$ /m ²	Cost per space	\$ /space
Construction – Commercial	\$	Fit out – Commercial	\$
Cost per square metre of commercial area	\$ /m ²	Cost per m ² of commercial area	\$ /m ²
Construction Residential	\$	Fit-out – Residential	\$
Cost per square metre of residential area	\$ /m ²	Cost per m ² of residential area	\$ /m ²
Construction – Retail	\$	Fit-out – Retail	\$
Cost per square metre of retail area	\$ /m ²	Cost per m ² of retail area	\$ /m ²

I certify that I have:

- inspected the plans the subject of the application for development consent or construction certificate;
- prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors;
- calculated the development costs in accordance with the definition of development costs in the **Ku-ring-gai Council s94A Development Contributions Plan** at current prices;
- included GST in the calculation of development cost; and
- measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____

*A member of the Australian Institute of Quantity Surveyors

Schedule 3: s94E Direction and accompanying circular



PLANNING circular

PLANNING SYSTEM

Local planning

Circular	PS 06-020
Issued	6 December 2006
Related	PS 05_003, PS 05_004

Changes to the application of section 94A of the EP&A Act – ministerial direction

This circular is to advise councils and the planning and development industry of recent changes affecting section 94A of the *Environmental Planning and Assessment Act 1979*.

Introduction

On 10 November 2006 the Minister for Planning issued a direction under section 94E of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The direction makes a number of changes to how section 94A of the EP&A Act is applied.

The changes take effect from 1 December 2006 and apply to development consents granted after that date.

Background

In July 2005, changes to the development contributions system under the EP&A Act commenced. One of the changes included the ability to collect development contributions by a fixed development consent levy, under section 94A of the Act.

Section 94A permits a consent authority to impose a condition of consent requiring that the applicant pay a levy of the percentage of the proposed cost of carrying out the development. This is set at a maximum of 1% under the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). The levy may be imposed when a development consent or complying development certificate is issued.

A section 94A levy must be expended towards capital costs associated with the provision, extension or augmentation of public amenities or public services and must be authorised by a contributions plan.

A section 94A contributions plan must identify the relationship between the expected types of development in the area and the demand for additional public amenities and services to meet that development, and include a works schedule that contains an estimate of their cost and staging.

Summary of changes

Following a review of the application of section 94A, the Minister for Planning has issued a direction under section 94E of the EP&A Act restricting the imposition of the maximum rate so that a consent authority:

- cannot impose a section 94A levy where the proposed cost of carrying out the development is \$100,000 or less
- may impose a maximum rate of 0.5% where the proposed cost of carrying out the development is between \$100,001 and \$200,000.

A consent authority may impose the maximum rate of 1% where the proposed cost of carrying out the development exceeds \$200,000.

Irrespective of the proposed cost of carrying out the development, the section 94E direction also states that a levy under section 94A can not be imposed on development:

- for the purpose of disabled access
- for the sole purpose of affordable housing
- for the purpose of reducing the consumption of mains supplied potable water, or reducing the energy consumption of a building

Department of Planning circular PS 06-020

- for the sole purpose of the adaptive reuse of an item of environmental heritage, or
- other than the subdivision of land, where a condition under section 94 of the EP&A Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.

A consent authority to which a direction is given under section 94E must comply with the direction in accordance with its terms.

Section 94E(3) of the EP&A Act provides that a consent authority must not, in granting development consent in relation to which a direction applies, impose a condition that is not in accordance with the terms of the direction, despite the other provisions of the Act and despite the provisions of any contributions plan.

Imposing a levy in contravention of the Minister's direction may render the condition unenforceable.

The Department of Planning has updated the two practice notes relating to the preparation of section 94A contributions plans, previously issued in July 2005.

The practice notes reiterate that section 94A was introduced to allow appropriate development contributions to be levied in areas where it is often difficult to determine the expected types of future development, the rate at which development will occur or where it will occur. Such areas are rural and regional areas, where there are slow rates of development or development is sporadic; and established urban areas, where development is mainly "in-fill" development and is also sporadic.

Existing or draft section 94A contributions plans

The direction issued under section 94E of the Act relates to the power to impose consent conditions relating to section 94A on development applications and applications for complying development certificates, and will prevail over the provisions of any existing section 94A contributions plan.

Where a council has in place an adopted section 94A contributions plan, it is recommended that council, at the earliest opportunity, amend the plan to reflect the changes brought about by the direction under section 94E.

Where a council has recently exhibited a draft section 94A, but has not adopted such a plan, council will need to amend the draft plan in accordance with the direction under section 94E, prior to its adoption.

Further information

A copy of the ministerial direction is attached and updated practice notes are available from the Department's website at:
www.planning.nsw.gov.au/planning_reforms/practi_cenote.asp

The Department is currently updating the other practice notes on the development contributions system and these will be available shortly on the website.

Authorised by:

Sam Haddad
Director General

Important note

This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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DOP 06_001

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ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

DIRECTION UNDER SECTION 94E

I, the Minister for Planning, under section 94E of the *Environmental Planning and Assessment Act 1979* ("the Act"), direct consent authorities that:

(1) The maximum percentage of the levy for development under section 94A of the Act, having a proposed cost within the range specified in the Table to Schedule A, is to be calculated in accordance with that Table.

- (2) Despite subclause (1), a levy under section 94A of the Act cannot be imposed on development:
- for the purpose of disabled access,
 - for the sole purpose of affordable housing,
 - for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building,
 - for the sole purpose of the adaptive reuse of an item of environmental heritage, or
 - other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.

In this direction words and expressions used have the same meaning as they have in the Act. The term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*.

This direction does not apply to development applications and applications for complying development certificates finally determined before 1 December 2006.



FRANK SARTOR, M.P.,
Minister for Planning,
Sydney.
[Dated: 10 November 2006]

SCHEDULE A

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

Appendix One: Table of Developments by type and location

This appendix is provided by way of summary of sections in the foregoing plan and must be read subject to the terms of the foregoing plan.

Development to which Ku-ring-gai s94A Contributions Plan 2015 applies:

Subject to this Contributions Plan, and in accordance with the cost of the proposed development, any other exemption in the legislation and s94E Directions, s94A contributions (indirect contributions) will be applied to the following development types:

- ✓ The demolition of an existing dwelling and its replacement by a newer dwelling commonly known as a knock down rebuild anywhere within the Ku-ring-gai LGA as it existed at the date of adoption;
- ✓ Secondary dwellings and granny flats anywhere within the Ku-ring-gai LGA as it existed at the date of adoption;
- ✓ Alterations and additions to residential dwellings and accommodation excluding additional dwellings anywhere in the Ku-ring-gai LGA except as provided for in footnote 32 on page 51 of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Alterations including refurbishments to business/commercial/retail/sporting & recreational premises where an intensification of use is involved, unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Additional or new floorspace for commercial developments and any other non-residential development outside the designated Town and Local Centres delineated by catchment maps in **Ku-ring-gai Contributions Plan 2010**;
- ✓ Change of use (subject to the limitations in the regulations);
- ✓ Childcare centres and Kindergartens unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Educational establishments unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Places of Public Worship and associated facilities unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Hospitals and Health Facilities unless the proposal falls within the ambit of **Ku-ring-gai Contributions Plan 2010**;
- ✓ Any other development where the description of that development precludes or exempts a contribution being applied under **Ku-ring-gai Contributions Plan 2010**.

Development to which Ku-ring-gai Contributions Plan 2010 applies:

Subject to any other exemption in the legislation, s94E Directions or this Contributions Plan, s94 contributions (direct contributions) will be applied to the following development types:

- ✓ All development that includes the provision of additional dwellings, including non-private dwellings, other than secondary dwellings and granny flats anywhere within the Ku-ring-gai LGA as it existed at the date of coming into effect on 19 December 2010;
- ✓ All business floorspace anywhere within the designated Town and Local Centres catchments areas as illustrated within Figures 1.2 to 1.8 inclusive in **Ku-ring-gai Contributions Plan 2010**;
- ✓ Any other development described within **Ku-ring-gai Contributions Plan 2010**.

In the case of not-for-profit development, applicants should refer to **1.26 Merit Exemptions from the Contributions Plan** on pages 52-53 of **Ku-ring-gai Contributions Plan 2010**.

In the case of a mixed use development outside the Town and Local Centres where the residential component is subject to a direct contribution under **Ku-ring-gai Contributions Plan 2010**, only that contribution will be levied because s94A(2) precludes the imposition of conditions under both types of contributions plans to any single development.

Both contributions plans are subject to any relevant s94E Direction that may affect their operation whether issued before and after their adoption.



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