

MIRANDA CENTRE OPEN SPACE EMBELLISHMENT PLAN

1.1. Summary

1.1.2 Overview

This plan is designed to collect contributions from new residential development within the Miranda Centre to improve the centre's open space capacity. The collection of contributions is to be done in accordance with Section 94 of the *Environmental Planning and Assessment Act*.

1.1.3 Rates

The following contribution rates are to apply in the Miranda Centre:

Residential Flat Buildings(per dwelling)	\$2,225.00
Medium Density Housing (per dwelling) (dual occupancy, townhouses, villas)	\$2,694.00
Subdivision (per dwelling)	\$3,163.00

1.1.4 Timing of payment

Except where otherwise stated, the payment of contributions under this contributions plan shall be made at the following times:

- Torrens Title Subdivision: before the release of the subdivision certificate / linen plan;
- Dual Occupancy, Villa Houses, Townhouses, Cluster Houses, Residential Flat Units or Apartments (including motels, hotels, boarding houses and back packers accommodation): before the issuing of the construction certificate; and
- Development applications involving a change of use: at occupation certificate stage.

1.1.5 Works Programme

The works programme is:

- Landscaping of the grounds of the Community Centre
- Open Space Landscaping (Urunga Parade Road Closure)
- Embellishment of Ewey Creek
- Masterplan for the long term development of Seymour Shaw Park
- Embellishment of Darly Street Park

1.2. Administration and Accounting

1.2.1 What are Section 94 Contributions

Section 94 of the *Environmental Planning and Assessment Act (EP & A Act) 1979* grants councils the power to levy contributions from developers for public services and public amenities required as a consequence of new development.

1.2.2 Purpose of this plan

The purpose of this plan is to authorise the council, when granting consent to development to which this plan applies, to impose a condition under section 94 of the *Environmental Planning and Assessment Act 1979* requiring a monetary contribution or the dedication of land free of cost towards the reasonable cost of providing public facilities in the area to meet development. Such a condition must be of a kind allowed by and determined in accordance with this plan.

The rationale of this plan is the maintenance of the current utility and amenity of local open space and recreation facilities in the Miranda Centre. The maintenance of the current level of utility and amenity will be achieved by increasing the capacity of facilities to meet increases in demand generated by new development. The Plan:

- enables Council to levy a contribution to improve open space and recreation facilities that serves all new residents, as a condition of development consent for new developments under this plan;
- ensures that adequate recreation facilities are provided for all new development;
- provides details of the contribution strategy, works to be implemented, nexus, anticipated costs, contribution rates, program of expenditure and administration of the plan; and
- ensures that the costs are apportioned fairly to new residents.

1.2.3 Commencement

This plan commences on 30 August 2005 and applies to a development application which proposes residential development on or after the date of commencement. An amendment to this plan was adopted and in force on 3 August 2010. Amendments to this plan were adopted and in force on 21st of December, 2010 (EAP081-11).

1.2.4 Relationship of this contributions plan to legislation, Council strategies, other policies, plans and requirements

This contributions plan has been prepared in accordance with the provisions of section 94 of the *Environmental Planning and Assessment Act* and Part 4 of the *Environmental Planning and Assessment Regulation 2000*.

Specified residential development subject to the controls in the Miranda Centre DCP will incur a Section 94 levy. The levy will appear as a condition of development consent.

Development consents, which have conditions requiring Section 94 Contributions under previous plans, will continue to be acted upon and the payment of those contributions will be required. All approved developments will be required to pay the contributions stated in development consents, plus any increase in the contribution in accordance with the wording of the condition. Council will continue to expend all incoming contributions levied under previous section 94 plans for open space for the purpose for which they were levied. This will be done in accordance to the relevant sections of the *Environmental Planning and Assessment Act 1979*.

The Shire-Wide Open Space and Recreation Facilities 2005 directs Council priorities towards the collection of Section 94 funds for regional open space and recreation facilities. Contributions under the 2005 plan will be levied against residential development within Miranda Centre, in addition to contributions under this plan.

Note: The S94A Levy Plan for Miranda Core Commercial Land applies to predominantly non-residential development in the centre.

This plan also follows council's strategic direction as set in:

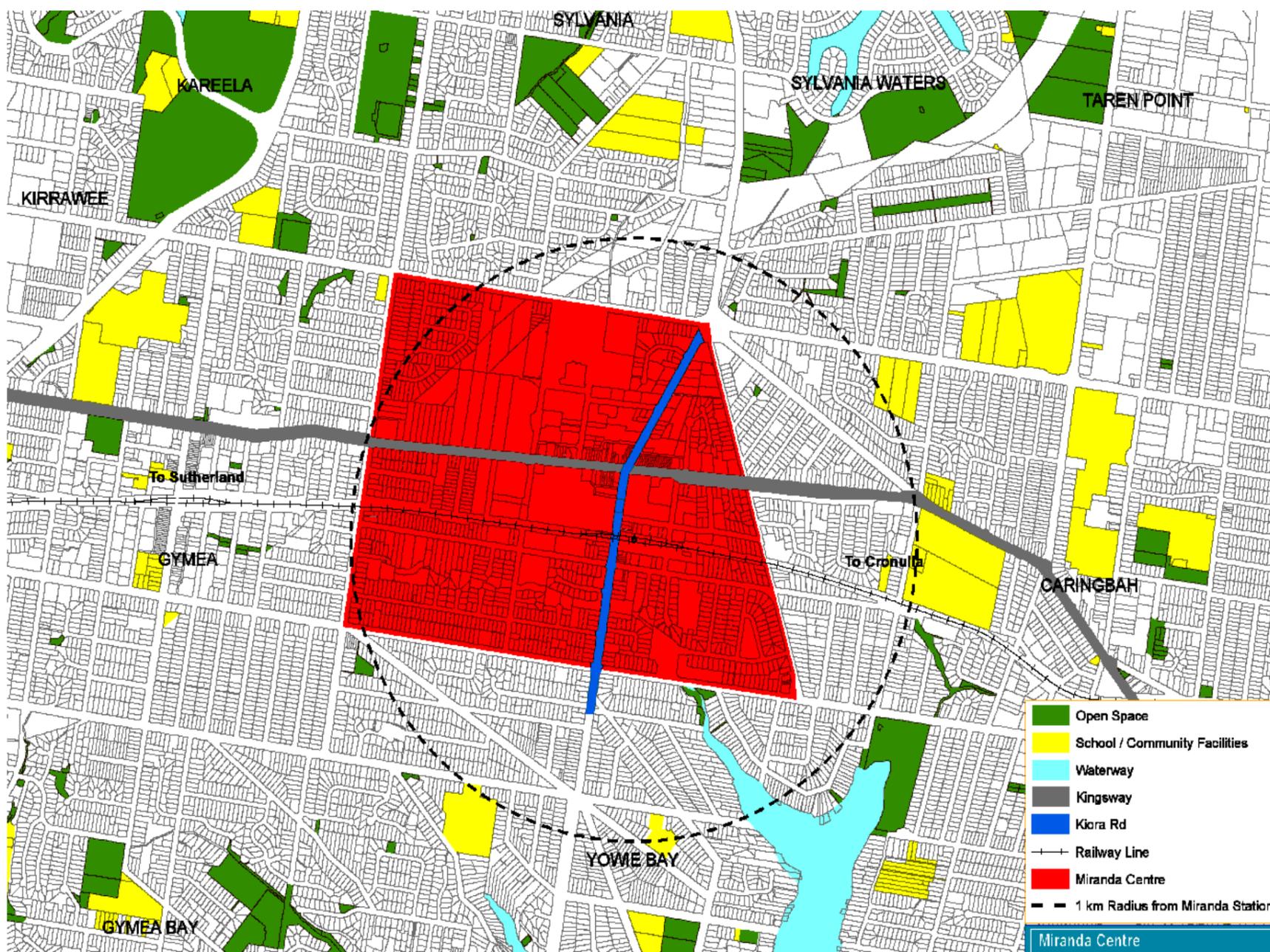
- The key priorities and directions in the "Our Shire Our Future" strategic plan, 1999;

- the strategies and actions in the “Blueprint for Action”, 2001 and
- the aims and objectives of the “Triple Bottom Line Management Plan,”, 2003.

Furthermore this contributions plan links up with council’s strategic direction for community lands plans of management and supplements the provisions of the Sutherland Shire Local Environmental Plan 2006.

1.2.5 Land to which this plan applies

This contributions plan applies to the Miranda Centre as shown as shown in Map 1 of this DCP (Note: see SSDCP2006 Chapter 2 Locality Strategies).



1.2.6 Application of this plan

This contributions plan requires monetary contributions from development within the Miranda Centre which is fairly certain to create an increase in demand for open space and recreation facilities within the Miranda Centre. This development includes the following types of development:

- Torrens title subdivision,
- dual occupancy housing,
- townhouses and villa houses,
- residential flat buildings,
- housing for older people and people with a disability, that includes in-fill self-care housing and self-contained dwellings as defined under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

1.2.7 Exemptions

When determining an application to carry out development to which this plan applies, the Council may decide not to impose a condition under section 94 of the Act or may reduce a contribution determined in accordance with this plan if, in the opinion of the Council, the development involves the carrying out of works, provides a material public benefit or meets a social need that warrants an exemption in the circumstances of the case.

The levy will not be imposed in respect of development:

- where the proposed cost of carrying out the development is \$100,000 or less;
- for the purpose of disabled access; or
- for the sole purpose of providing affordable housing; or
- for the purpose of reducing a building’s use of potable water (where supplied from water mains) or energy; or
- for the sole purpose of the adaptive reuse of an item of environmental heritage; or
- that has been the subject of a condition under section 94 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.

1.2.8 Timing of the contribution payment

Except where otherwise stated, the payment of Contributions under this Contributions Plan shall be made at the following times:

- development applications involving subdivision: at the release of the subdivision certificate / linen plan;
- development application involving building work: at the time of the issuing of the construction certificate
- development applications involving a change of use: at occupation certificate stage

1.2.9 Deferred or periodic payment

Council may allow deferred or periodic payment of monetary section 94 contributions subject to consideration of a section 96 modification of consent, specifying the payment method, made before the time for payment of the contribution.

In deciding whether to allow deferred or periodic payment of a monetary s94 contribution, the Council will take into consideration the following matters:

- the reasons provided by the applicant requesting a deferred or periodic payment,
- whether allowing the deferred or periodic payment is likely to prevent the public facility being provided to meet the demands of development in a timely manner,
- whether the applicant has provided the Council with adequate security in relation to the deferred or periodic payment,
- any other relevant circumstances of the case.

The decision to accept a deferred or periodic payment is at the sole discretion of Council. Prior to a periodic payment being accepted, discussions must be held with Council's section 94 planner/administrator.

If the Council determines to allow the application, the arrangements relating to the deferred or periodic payment will not take effect until the applicant has entered into a written agreement with the Council reflecting the terms of the Council's approval. If approved, a condition relating to the deferred or periodic payment will be placed on the subject amended development consent.

Applicants may apply to pay contributions through periodic payments or defer the payment for a set period by way of a bank guarantee as detailed below.

1.2.9.a Set Time Period Deferment

A set time period deferment requires contributions to be paid within 12 months of the date of issue of the construction certificate or prior to issue of the occupation certificate, whichever comes first. A deferred payment will only be accepted by way of a bank guarantee from an Australian bank for the total or outstanding contribution amount plus interest. A Deed of Agreement entered into by the applicant and Council must be executed prior to the release of the Construction Certificate.

Bank Guarantee

The guarantee requires the bank to unconditionally pay the guaranteed sum to Council at the time stipulated in the agreement. All costs incurred in the establishment, operation, administration or discharge of the bank guarantee, are borne by the applicant. The bank's obligations are discharged when payment to the Council is made in accordance with the guarantee, or when Council notifies the bank in writing that the guarantee is no longer required, or if the related consent lapses.

The formula applied to all bank guarantees for section 94 contributions is as follows:

$$\text{Bank Guarantee Amount} = C(1+i)^n + A$$

C	section 94 contribution that is due
i	interest foregone by Council calculated at the current overdraft rate (%)
n	period of deferral in years
A	Council's current administration charge

1.2.9.b Periodic Payment

Periodic Payment Process

A periodic payment deferment requires contributions to be paid within 12 months of the date of issue of the construction certificate or prior to issue of the occupation certificate, whichever comes first. A Deed of Agreement entered into by the applicant and Council must be executed prior to the release of the Construction Certificate and a payment schedule created and administered by Council.

$$\text{Periodic Payment Amount} = C(1+i)^n + A$$

C	section 94 contribution that is due
i	interest foregone by Council calculated at the current overdraft rate (%)
n	period of deferral in years
A	Council's current administration charge

Council may accept periodic payment by way of instalments when the development is staged and the instalment is paid before the works commence on any stage of the development at a pro-rata amount to the overall development.

1.2.9.c Indexation

Deferred or periodic payment is subject to indexation which is charged on the 1st of July each year on the balance outstanding at the time.

1.2.9.d Condition of Consent

If Council allows and application for deferred or periodic payment, an amended condition of consent will be placed on the Development Consent:

Payment shall be made in accordance with a Deed of Agreement, in accordance with Council requirements and the provisions of the Plan. The Deed of Agreement must be executed prior to the issue of a Construction Certificate. Full payment of outstanding contributions is required prior to the release of the Strata Plan or Occupation Certificate or within 12 months of the Deed of Agreement, whichever comes first. Note: Interest is payable at the current Council overdraft rate. This arrangement is subject to indexation which is charged on the 1st July each year on the balance outstanding at the time.

1.2.10 Contributions authorised by this plan

This plan authorises the Council to grant consent to an application to carry out development to which this plan applies subject to the following kinds of conditions under section 94 of the EP & A Act:

- a condition, determined in accordance with this plan, requiring the payment of a monetary contribution under s94 (3) of the EP & A Act,

As the Miranda Centre Section 94 Contributions Plan is an embellishment plan, the dedication of land in lieu of Section 94 will not be considered.

On written application by the applicant, the Council may agree to accept:

- the provision of a material public benefit (other than the dedication of land or the payment of a monetary contribution) in part or full satisfaction of a condition imposed in accordance with section 94 (3) of the EP & A Act requiring the payment of a monetary contribution. This option needs to be initiated by the applicant who will be required to give Council full details of the proposed contribution. All applications will be assessed as to whether the proposed contribution satisfies the purpose of the plan and that it will not negatively impact on the works program specified in this plan.

If the Council determines to allow the application, the relevant arrangements will not take effect until the applicant has entered into a written agreement with the Council reflecting the terms of the Council's approval.

1.2.11 Plan updates and review

This Section 94 contribution plan rates and outstanding contributions will be indexed on 1 July every year. The rate is indexed by use of Implicit Price Deflator for Gross Fixed Capital Expenditure – Private Dwellings (IPD). These figures are produced by the Australian Bureau of Statistics in its publication "Australian National Accounts National Income and Expenditure"¹ and are published on a quarterly basis. This report provides the information for the indexation on 1 July of every year.

The IPD is considered to be a more appropriate index than the consumer price index because it takes into account increases in building costs. The IPD has been recommended for use by the Department of Infrastructure and Natural Resources (DIPNR) to index contributions. The formula to review this contribution rate is as follows:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{current IPD}}{\text{Previous years IPD}}$$

The same basic formula is also used to index outstanding contributions under this plan.

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{current IPD}}{\text{Previous years IPD}}$$

It should be noted that Council may decide to formally review the contributions plan from time to time when deemed necessary. It is intended that a comprehensive review of this plan will be carried out after the release of 2010 Census data or when Miranda DCP is next reviewed, whichever is the earlier.

1.2.12 Funds and accounts

Financial management and accountability are important components of section 94. For this reason Sutherland Shire Council shares the management of Section 94 between several divisions of the organisation.

Separate accounting records are maintained for all Council's section 94 Contributions Plans. Monetary contributions received under this Plan are kept in a separate account specifically for this plan.

Accounting records show the contributions received and expended, including any interest earned on invested funds for each account. These records are updated on a monthly basis.

Information on section 94 accounts and funds relating to this plan will be provided in a condensed format within Sutherland Shire Council's Annual Reports in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*. Information is also available in Council's contribution register relating to this plan which can be inspected at Council's Customer Service Centre in Council's main administration building during Council's ordinary office hours. More detailed records are held by Council's Finance Division and may be inspected with reasonable notice.

1.2.13 Contributions Register

Sutherland Shire Council, as required by the *Environmental Planning and Assessment Regulation 2000*, is responsible for the maintenance and provision of a contributions register relating to contributions levied under this plan. This register records the following details:

- particulars sufficient to identify each development consent for which a section 94 condition has been imposed,
- the nature and extent of the section 94 contribution required by the condition for each public amenity or service,
- the contributions plan under which the condition was imposed,
- the date or dates on which any section 94 contribution required by the condition was received and its nature and extent.

A copy of the contributions register relating to contributions levied under this plan can be viewed at Council's Administration Building, Eton Street, Sutherland during Council's ordinary office hours.

1.3. Open Space and Recreation Facilities Strategy for the Miranda Centre

1.3.1 Introduction

The key priorities and directions in the "Our Shire Our Future" strategic plan and the aims and objectives of the "Triple Bottom Line Management Plan" provide the strategic direction to this plan.

One of the key directions established by the "Our Shire Our Future" and underpinned by this plan is the need to pursue opportunities which respects people and nature while utilising the Shire's unique cultural and natural assets. Council's management plan has advanced this direction by requiring Council actions that improve and create facilities that capitalise on the natural and recreational characteristics of the Shire. This desired outcome is carried across the Shire but applies more readily to the Miranda Centre given its status as a sub-regional centre.

The Miranda DCP is the implementation mechanism for achieving the strategies of the Management Plan. A key element of the Miranda DCP is to create a system of linked public open space which can provide immediate opportunities for improved utilisation of parks. This Section 94 Plan intends to generate funds to facilitate this outcome.

1.3.2 Population and development trends

Between 1996 and 2001 Miranda Centre's population increased by 21%². In comparison, the entire population of the Shire has increased by only 5%³ in that period. Miranda Centre contains a greater proportion of residents in the 25 to 34 age group⁴ which makes them more mobile and able to access a greater number of recreational facilities.

¹ The IPD refers to the March figure of the "Gross fixed capital formation – Private – Dwellings – Total Dwellings" in the "Expenditure on GDP, Implicit price deflators (a): Seasonally adjusted" table in ABS "March Quarter Australian National Accounts – National Income, Expenditure and Product – 5206.0" publication.

² Miranda Centre Background Report 2004 – Sutherland Shire Council, Environmental Planning Unit

³ ibid

⁴ ibid

The significant increase in population can be attributed to a large increase in the number of dwellings, particularly units and to a lesser extent villas and townhouses. The number of dwellings in Miranda Centre has increased from 11.2 dwelling per hectare to 14.7 dwellings per hectare or a total dwelling increase of 31% over the 1996 to 2001 period⁵.

These statistics suggest that the provision of public open space and outdoor recreation facilities should meet the needs of this growing community.

1.3.3 Nexus

The ability to levy contributions for the provision of open space in Miranda Centre is dependant upon the nexus between new development and the demand for additional open space to meet the demand created.

The Miranda Centre has a total of 64,580 m² of local open space which attributes to 4% of the total land area. The Miranda Centre is defined in the open space hierarchy as a local catchment area. Open space in a local catchment area is defined as open space within a suburb or neighbourhood where access to open space facilities can generally be gained by walking or cycling. It should be noted that Seymour Shaw Park is a district park, for which the Shire-wide Open space plan collects contributions. This plan recognises its district function and so excludes the park from the local open space requirement, and reduces the per person requirement accordingly. Based on this information the total local open space provision equates to 12.2sq.m per person. The purpose of this plan is to maintain this level of provision for the existing and future population.

The Miranda Centre over the last 5-7 year period has boosted its open space provisions to accommodate the growing population by the acquisition of land at Karimbla Road and properties along the Ewey Creek corridor. Consequently, the provision of local open space in Council's ownership is well balanced between passive and active recreation. Miranda Centre has open space facilities including a sportsground, small neighbourhood parks and a commitment to the Ewey Creek open space pedestrian corridor.

Since 1993, Council through its Plan of Management for Ewey Creek has included a strategy to transform the creek system into a valuable passive open space corridor which has required the acquisition of private land. Council has already under the repealed 2000 Section 94 Open Space Contributions Plan made headway into the acquisition program and has made a commitment for it to continue. It is anticipated this plan needs to generate approximately \$5.5 million, at current market prices, to complete the acquisitions program.

With limited development potential proposed in Miranda Centre, there is limited opportunity to fund the Ewey Creek acquisitions program. Attempting to fund both the Ewey Creek program and local park embellishment improvement is not achievable without unreasonable contribution rates as the anticipated population growth will not generate sufficient funds. Preparing a plan which levies for only embellishment purposes will ensure Council has fulfilled its commitment by delivering improved local parks to the benefit of existing and future residents of Miranda Centre.

An examination of Council's Management Plan has revealed that there has been limited investment made on embellishment works for the existing local parks in Miranda Centre. The provision of facilities and/ or development of these parks will attract an even greater range of users from within the local community.

The demographics of the Miranda Centre population confirm that the existing areas of open space are likely to be well utilised. Any increase in population will place additional needs on these facilities which will require funding to improve.

1.3.4 Methodology for the contribution rate

The contribution rate for this plan is based on the embellishment of open space and does not levy for acquisition. The contribution rate has been based on the standard cost per sq.m to improve an area of open space and the occupancy rates across different development types. Accordingly, the contribution rates are as follows:

Land embellishment calculation for residential flat development						
Cost for the embellishment of local open space	Local Open Space per person	Total Embellishment Costs	Forecast population growth	Forecast dwelling growth	Persons per dwelling	Local catchment embellishment contribution (including management levy)
96 sq.m	12.20 sq.m	\$1,171 per person	375	197	1.9	\$2,225 per dwelling
Land embellishment calculation for medium density housing						
Cost for the embellishment of local open space	Local Open Space per person	Total Embellishment Costs	Forecast population growth	Forecast dwelling growth	Persons per dwelling	Local catchment embellishment contribution (including management levy)
96 sq.m	12.20 sq.m	\$1,171 per person	74	32	2.3	\$2,694 per dwelling
Land embellishment calculation for subdivision						
Cost for the embellishment of local open space	Local Open Space per person	Total Embellishment Costs	Forecast population growth	Forecast dwelling growth	Persons per dwelling	Local catchment embellishment contribution (including management levy)
96 sq.m	12.20 sq.m	\$1,171 per person	75	28	2.7	\$3,163 per dwelling

Note 1 – Cost for the embellishment of local open space was based on the standard costs of turf, footpaths and benches

Note 2 – The number of dwelling per person is based on information reported in the 2001 census

Note 3 – Population projections were determined as shown in the table below:

Zone	Development potential		Take up rate		
	No of dwellings (note 1)	Population (note 2)	Assumed take up rate (%)	No of dwellings (note 1)	Population (Note 2)
9(a)	304	577	65	197	375
2(b)	80	184	40	32	74
2(a1)	1394	3764	2	28	75
Total	1778	4525		257	524

Note 1- The number of dwellings is based on the development potential in Miranda Centre, an assumed dwelling size of 120 sq.m per dwelling (this is considered a reasonable benchmark for future multi-dwelling developments)

Note 2- Population forecast is based on the estimated number of dwellings and occupancy rates of different dwelling types reported in the 2001 Census.

⁵ . ibid