

SECTION 94 DEVELOPER CONTRIBUTIONS PLAN

LAND WITHIN THE SUTHERLAND CENTRE

December 2006

ENVIRONMENTAL PLANNING UNIT

SUTHERLAND SHIRE COUNCIL

Sutherland Centre Section 94 Contributions Plan

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1.1 Summary

1.1.1 Overview

This plan is designed to collect contributions from new residential development within the Sutherland 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.

1.1.2 Rates

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

Residential Flat Development (per 1,2, or 3 bedroom dwelling) -	\$2685.05
Mixed Development (per 1, 2, or 3 bedroom dwelling) -	\$2685.05
Medium Density Housing (per dwelling) - (dual occupancy, townhouses, villas)	\$2685.05
Subdivision (per dwelling) -	\$4099.75

1.1.3 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, 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.

1.1.4 Works Programme

The works programme is:

1. Proposed extension to Peace Park incorporating 2,4,6,8 Stapleton Ave
2. Footpath widening in Boyle Street and Flora Street – enabling outdoor eating/plaza, street planting and beautification
3. Boulevard street tree planting Old Princes Highway, President Avenue, Linden Street, Rawson Street, and other street tree planting
4. Public Domain improvements
5. Sculpture at entry to centre Eton Street/Old Princes Highway
6. Glencoe St open space
7. Sutherland Park (Linden St) embellishment

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 the 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, or works in kind, 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 and justification for this contribution plan is the maintenance of the current utility and amenity of the public realm and local open space in the Sutherland Centre required by future development and an increased residential population. 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 the public domain and local 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 public domain improvements and 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 12th December 2006 and applies to any development application which proposes residential and mixed development approved on or after the date of commencement. Amendments to this plan were adopted and in force on 21st of December, 2010 (EAP081-11).

1.2.4 Relationship of this Contribution 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 1979 and Part 4 of the Environmental Planning and Assessment Regulation 2000.

Specified residential and mixed development subject to the controls in the 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 with 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 Sutherland Centre, in addition to contributions under this plan.

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

- The key priorities and directions in the "Our Shire Our Future" strategic plan, 2007, and
- The aims and objectives of the Quadruple Bottom Line Management Plan 2009/10 - 2011/12

1.2.5 Application of this Plan

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

- Torrens title subdivision,
- Dual occupancy housing,
- Townhouses and villa houses,
- Residential flat development (including a change of use to residential flats), including units in mixed residential/commercial development,
- 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 (Seniors Living).

1.2.6 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.

1.2.7 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.

1.2.8 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.

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

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.

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.

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.

1.2.9 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 1979:

- a condition, determined in accordance with this plan, requiring the payment of a monetary contribution under S94 (3) of the EP & A Act 1979,

As the Sutherland 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.

1.2.10 Plan Updates and Review

This Section 94 contribution plan rates and outstanding contributions will be indexed on 1 July and quarterly 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 Expenditure⁴ and are published on a quarterly basis. This report provides the information for the indexation on 1 July and quarterly per year.

The IDP 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 Planning(DOP) to index contributions. The formula to review this contribution rate is as follows:

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

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

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

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 Sutherland Centre DCP is next reviewed, whichever is the earlier.

1.2.11 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.

⁴ 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.

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.

1.2.12 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, Public Domain and Recreation

Facilities Strategy for the Sutherland Centre

1.3.1 Introduction

The key priorities and directions in the "Our Shire Our Future" strategic plan, the "Sutherland Shire Structure Plan 2003" 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 respect 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 Sutherland Centre given its status as a sub-regional centre.

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

1.3.2 Population and Development Trends

Sutherland's population has increased from 4,152 persons in 1996 to 6,008 persons in 2001 (a 44.7% increase). In comparison, the entire population of the Shire increased by only 5% in that period.

The significant increase in population can be attributed to a large increase in the total number of dwellings, particularly units and to a lesser extent villas and townhouses. There has been a 51% increase in the number of dwellings in Sutherland in the period 1996 to 2001. In comparison, the increase in the number of dwellings within the whole Shire increased by only 7.76% in that period. These statistics suggest that the provision of public open space, public domain works and outdoor recreation facilities should meet the needs of this growing community.

1.3.3 Nexus

The ability to levy contributions for the improvement of the public domain and the provision of open space in Sutherland Centre is dependant upon the nexus between new development and the demand for improved amenity and additional or embellished open space to meet the demand created.

The Sutherland Centre has a total of 246,677 m² of local open space. The Sutherland 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 Waratah Park and Sutherland Oval are district parks/recreation facilities, 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. However, the plan does include passive open space created by road closures or other wider road reserves (Glencoe Street).

Based on this information the total local open space provision equates to 7.7sq.m per person. The purpose of this plan is to maintain this level of provision for the existing and future population. The plan does not levy commercial floor space or potential commercial floorspace as studies have shown that residents are four times more likely to use open space and public domain improvements than employees. These statistics suggest that the provision of improved public amenity, public open space and outdoor recreation facilities should meet the needs of this growing community.

Specific surveys of how workers and residents differently make use of the streetscape and public domain areas have not been carried out in Sutherland. However such surveys have been carried out by Councils in other local government areas such as South Sydney. The surveys conducted by South Sydney Council found that residents and workers each had a different demand for streetscape and public domain facilities. These surveys showed that an average resident had 4 times the usage of the public domain that a worker did. Given the small contribution required by the plan and the difficulty in estimating current and projected worker population it was decided to grant commercial and retail floorspace a concession and levy for residential dwellings only.

Furthermore, Council wishes to encourage active street frontages with commercial and retail floorspace opportunities and avoid a dormant residential centre.

The improvement to the public domain has been estimated at \$300 per square metre, based on improvements currently being undertaken at Cronulla. Approximate 10,306 square metres of street frontages/footpaths will eventually need to be upgraded. Upgrading of the footpaths and public domain in Eton Street, Flora Street, Old Princes Highway, East Parade, Adelong Street, and Robertson Street and the widening of footpaths and street furniture in Boyle Street and Flora Street outdoor eating precincts are estimated to cost \$3,091,800.00. In the first five years of this plan, prior to a review, it is estimated to complete half of these works (\$1,545,900.00). A projected population of 2292 persons requires a contribution of \$674.50 per person.

1.3.4 Methodology for the Contribution Rate

The contribution rate for this plan is based on the embellishment of open space and improvement to the public domain 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. The town centre public domain component of the contribution has been based on an estimate of the cost of improvements to the town centre. Both components are based on the occupancy rates across different development types. Accordingly, the contribution rates are as follows:

Land embellishment calculation for residential flat development (including mixed use 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	7.7 sq.m.	\$739.20 per person	1769	930	1.9	\$1404.50 per dwelling
Cost for public domain improvements	Public Domain costs per person	Total Cost of improvements	Total population growth			Public Domain Improvement works
\$300/sq.m.	\$674.50	\$1,545,900.00	1769	930	1.9	\$1281.55
				Total Contribution		\$2685.05
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	7.7 sq.m	\$739.20 per person	520	274	1.9	\$1404.50 per dwelling
Cost for public domain improvements	Public Domain costs per person	Total Cost of improvements	Total population growth			Public Domain Improvement works
\$300/sq.m.	\$674.50	\$1,545,900.00	1769	930	1.9	\$1281.55
				Total Contribution		\$2685.05
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	7.7 sq.m	\$739.20 per person	3	1	2.9	\$2143.70 per dwelling
Cost for public domain improvements	Public Domain costs per person	Total Cost of improvements	Total population growth			Public Domain Improvement works
\$300/sq.m.	\$674.50	\$1,545,900.00	1769	930	2.9	\$1956.05
				Total Contribution		\$4099.75

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 persons per dwelling 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)
3(a)	748	1421	65	486	924
9(a)	212	403	65	138	263
2(c)	470	893	65	306	580
2(b)	684	1300	40	274	520
2(a)	35	102	2	1	3
Total	2114	4119			2292

Note 1- The number of dwellings is based on the development potential in Sutherland 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.