

# **DEVELOPER CONTRIBUTIONS PLAN**

**FOR**

**BUNDANOON**

**Adopted: 11th February, 2004**  
**Effective: 18th February, 2004**

## **Amendments**

### **Version 2**

**Adopted: 27 September 2006**  
**Effective: 4 October 2006**

### **Version 3**

**Adopted: 9 November 2010**  
**Effective: 8 December 2010**

### **Version 4**

**Adopted: 8 August 2012**  
**Effective: 15 August 2012**

**This Developer Contributions Plan has been prepared in accordance  
with Section 94 of the Environmental Planning and Assessment Act, 1979  
and Environmental Planning and Assessment Regulation, 2000.**

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## **DISCLAIMER**

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## EXECUTIVE SUMMARY

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This plan establishes the framework within which monetary contributions may be levied for infrastructure required as a result of development in Bundanoon.

The plan identifies a works schedule for the provision of Community Facility infrastructure for all developments in the town, regardless of their location.

A summary of contribution rates are (at Oct 2006):

Community Facilities	Town	\$1,082
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The plan provides for the indexing of contribution rates on the basis of upward movements in the Consumer Price Index (CPI) for Sydney. Contributions will generally be in the form of cash payments only.

Council will consider applications for works in kind to undertake the proposed infrastructure work where the development is in close proximity to proposed work.

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## **1.0 INTRODUCTION**

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### **1.1 Background**

Council instigated the preparation of a Development Control Plan and Developer Contributions Plan for the development area to introduce a coordinated approach to infrastructure provision and a fair mechanism for funding infrastructure improvements as a result of development, hence avoiding poor planning outcomes.

### **1.2 Purpose of the Plan**

The purpose of this Plan is as follows:

- To establish the legal framework within which monetary contributions may be levied for a traffic management, stormwater drainage and community facility infrastructure.
- To detail the method applied to the derivation of the developer contributions.
- To define the works program for the proposed infrastructure.
- To define Council's contributions payment policies.

### **1.3 Land to Which the Plan Applies**

This plan applies to all urban land within Bundanoon, including land in the vicinity of Grearsons Land zoned 1(c) Rural Smallholdings. The area applicable is identified on the map attached as appendix 'A'.

### **1.4 Date from which this Plan Comes into Effect**

This plan was adopted by Council on the 11<sup>th</sup> February 2004.

The plan came into effect on the 18<sup>th</sup> February 2004.

Contributions will be levied pursuant to this plan as a condition of development consent granted on or after the 18<sup>th</sup> February 2004.

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## **1.5 Legislation Applicable**

The levying of Community Facilities comes under Section 94 of the Environmental Planning and Assessment Act, 1979 which empowers local government authorities to levy monetary contributions from developers for services and facilities required as a consequence of development.

The ability to levy for contributions is contingent upon there being a demonstrated nexus or relationship between the contribution sought and the development proposed.

## **1.6 Relationship Between the Plan and other Existing Policies and Plans**

This Developer Contributions Plan has been prepared in light of the recently adopted Development Control Plan No. 52 for Bundanoon and development projections established in Council's Strategic Planning Document "Wingecarribee Our Future". This Plan is a new Developer Contributions Plan specifically for Bundanoon.

A number of environmental planning instruments apply to the development of land to which this plan relates. They include State Environmental Planning Policies, the Illawarra Regional Environmental Plan No. 1 and the Wingecarribee Local Environmental Plan 2010 (as amended).

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## 2.0 NEXUS

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### 2.1 Nexus - Introduction

The basis of a Developer Contributions Plan is the nexus or relationship between the proposed development and the need for increased services and amenities, in this case, additional traffic management, stormwater drainage and community facility infrastructure.

### 2.2 Anticipated Development

A review of the development potential for residential development in Bundanoon was undertaken in 2006. As a result, Council anticipate a further 425 residential lots/units to be developed in the next 5 to 10 years consistent with the 'Wingecarribee Our Future' Strategic Plan. It is anticipated that development will mainly be single residential dwellings. The following details show the development potential anticipated in the five (5) Precincts identified in DCP 52.

Precinct 1	160 Lots/units
Precinct 2	30 Lots
Precinct 3	85 Lots
Precinct 4	15 lots
Precinct 5	85 Lots
Other areas and Infill	50 Lots/units
<b>TOTAL</b>	<b>425 Lots/units</b>

### 2.3 (Repealed 15 August 2012)

### 2.4 (Repealed 8 December 2010)

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## 2.5 Community Facilities

All forms of residential development which result in additional population require a range of community facilities and services to support the needs of that population. Therefore, as the population increases, additional demand is placed on existing facilities and services as well as creating demand for new amenities.

The range and type of new public facilities will be influenced by the anticipated demographic composition of new developments, the types of public facilities currently available and by the availability of any spare capacity within existing infrastructure.

In the case of Wingecarribee Shire, the geographic location of facilities is considered to be a limiting factor in the provision of Community Facilities and Services throughout the shire, given the transport network and lack of public and community transport in the outer towns and villages. Public facilities will be provided in locations best suited to meet the demands of the new population.

### Standard of Provision

The standard of provision for community facilities in Bundanoon should be the same as that provided in East Bowral.

The community centre component of the East Bowral Community Centre is 241 square metres in size. The East Bowral facility includes: meeting room, hall, storage, kitchen, toilets, tables/chairs equipment etc, outdoor area, car parking and landscaping. This centre caters for a population of about 4000 people or 1350 dwellings.

This standard equates to  $\frac{241 \text{ sq/m}}{1350 \text{ dwellings}} = 0.18 \text{ sq/m per dwelling}$

### Apportionment

There is an existing community facility in Bundanoon. It is approximately 125 square metres in size.

The 2001 Census indicates that there are the equivalent of 782 dwellings currently in Bundanoon. A more recent assessment of the number of occupied dwellings in Bundanoon was undertaken using garbage service data in the residential areas. It is therefore assumed that 900 dwellings exist in Bundanoon as at 1st January 2004. Adopting the standard of 0.18 sq/m per dwelling, the existing population requires a community facility that is approximately 162 square metres in size ( $0.18 \times 900 = 162$ )

As a result, the current community facility does not meet the demand generated by existing development. There is a shortfall of approximately 37 square metres.

The Council proposes to construct a community facility that meets the shortfall in provision generated by existing development as well as demand generated by future development.

Future development will generate demand for a community facility that is 108 square metres in size ( $600 \times 0.18 = 108$ ). The total facility will accordingly need to be 145 square metres in size ( $108 + 37 = 145$ ).

Demand for this facility would be generated by the existing community and new development in the ratio of 37 to 108. Therefore a maximum of 74% of the cost of the facility can be funded by section 94 contributions.



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It is estimated that a 145m<sup>2</sup> facility will cost approximately \$498,000 to build on a parcel of land worth approximately \$200,000. The total cost would accordingly be \$498,000 + \$200,000. Council will provide the land on which the facility is to be built. As the approximate value of this land is greater than 26% of \$698,000, Council would not need to fund any part of the construction on behalf of the existing community for this new building.

Therefore, S.94 will fund 100% of the construction of the new facility.

Contribution Calculation

The proposed community centre, excluding land is estimated at \$498,000 to cater for an additional 425 dwellings.

$$\text{Contribution} = \$498,000 / 425 \text{ dwellings} = \mathbf{\$1,082 \text{ per lot/unit}}$$

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## 3.0 METHOD OF PAYMENT

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### 3.1 When are contributions payable

A contribution must be paid to the council at the time specified in the conditions of consent for the development. Council requires that Developer Contributions be paid either:-

- (a) Prior to the release of a Linen Plan of Subdivision in the case of the creation of a residential or rural-residential (Zone 1(c)) allotment.
- (b) Prior to the release of any building approval/construction certificate in the case of multi-unit housing or other development.
- (c) Prior to the issue of occupation or interim occupation certificate in the case of affordable aged care housing provided by a not-for-profit organisations.

All approved development will be required to pay the contribution stated in their valid consent, *plus* any increase as a result of the review, *plus* any increase in contribution amount due to inflation as indicated by the Consumer Price Index (Sydney), in accordance with the wording of the condition given at the date of consent.

### 3.2 Method of Payment

Contributions may be made in the form of either cash; dedication of land or material public benefit with the approval of the Council.

Development consents requiring the payment of a Developer Contribution will contain a condition specifying the amount payable in monetary terms at the time the consent is issued. A note will be attached to the consent condition which will advise that the contribution rate charged will be that rate which applies at the time of payment, i.e. the rate may increase (through indexation or a review of the plan) from the time the condition appears on the notice of development consent until the time the contribution is actually paid to Council.

NOTE – Applicants should request an update of the rates applicable prior to payment to avoid delays.

### 3.3 The obligation of accredited certifiers

In accordance with Section 94EC of the EP&A Act and Clause 146 of the EP&A Regulation, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the EP&A Regulation. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by the Council. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

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In accordance with s94EC(1) of the EP&A Act, accredited certifiers must impose a condition requiring monetary contributions in accordance with this development contributions plan which satisfies the following criteria:

- Residential subdivisions;
- Medium density development
- Dual occupancy development
- Tourism development

The conditions imposed must be consistent with Council's standard section 94 consent conditions and be strictly in accordance with this development contributions plan. It is the professional responsibility of accredited certifiers to accurately calculate the contribution and to apply the section 94 condition correctly.

### **3.4 Deferred/periodic payments**

Deferred or periodic payments may be permitted in the following circumstances:

- (a) compliance with the provisions of Clause 2.6 is unreasonable or unnecessary in the circumstances of the case.
- (b) deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the works program,
- (c) where the applicant intends to make a contribution by way of a planning agreement, works-in-kind or land dedication in lieu of a cash contribution and Council and the applicant have a legally binding agreement for the provision of the works or land dedication,
- (d) there are circumstances justifying the deferred or periodic payment of the contribution.

If Council does decide to accept deferred or periodic payment, Council may require the applicant to provide a bank guarantee by a bank for the full amount of the contribution or the outstanding balance on condition that:

- The bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security
- The bank unconditionally pays the guaranteed sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work.
- The bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development
- The bank's obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required.
- Where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.
- The amount in the guarantee must be in Australian Dollars.

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### **3.5 Can the contribution be settled “in-kind” or through a material public benefit?**

The Council may accept an offer by the applicant to provide an “in-kind” contribution (ie the applicant completes part or all of work/s identified in the plan) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this plan.

Council may accept such alternatives in the following circumstances:

- (a) the value of the works to be undertaken is at least equal to the value of the contribution that would otherwise be required under this plan; and
- (b) the standard of the works is to Council’s full satisfaction; and
- (c) the provision of the material public benefit will not prejudice the timing of the manner of the provision of public facilities included in the works program; and
- (d) other as appropriate in the circumstances.

The value of the works to be substituted must be provided by the applicant at the time of the request and must be either:

- independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications, or
- if agreed by Council, assessed by Council employees to be a reasonable value.

Council will require the applicant to enter into a written agreement for the provision of the works.

Acceptance of any such alternative is at the sole discretion of the Council. Council may review the valuation of works or land to be dedicated, and may seek the services of an independent person to verify their value. In these cases, all costs and expenses borne by the Council in determining the value of the works or land will be paid for by the applicant.

### **3.6 Review of contribution rates**

To ensure that the value of contributions are not eroded over time by inflation, land value increases, the capital costs of administration of the plan or through changes in the costs of studies used to support the Plan, the Council will review the contribution rates.

The contribution rates will be reviewed by reference to the following specific indices:

- Construction costs by the consumer price index (all groups Sydney average) as published by the Australian Bureau of Statistics.
- Land acquisition costs by reference to average land valuation figures either published by Council in Council’s Management Plan or by a registered surveyor.
- Specific valuations for particular parcels of land that are identified in the S94 plan as published by the Council in Council’s Management Plan.
- Changes in the capital costs associated with provision of administration and salary costs for staff involved in implementing Council’s S94 plan by reference to increases in salary rates under the Local Government State Award Plan as published by the Council in Council’s Management Plan.

- Changes in the capital costs of various studies and activities required to support the strategies in the plan by reference to the actual costs incurred by Council in obtaining these studies plan as published by the Council in Council's Management Plan.

In accordance with clause 32(3)(b) of the EP&A Regulation, the following sets out the means that the Council will make changes to the rates set out in this plan.

For changes to the consumer price index (all groups Sydney average), the contribution rates within the plan will be reviewed on a quarterly basis in accordance with the following formula:

$$\$C_A + \frac{\$C_A \times (\text{current index} - \text{base index})}{\text{Base index}}$$

Where

\$C <sub>A</sub>	is the contribution at the time of adoption of the plan expressed in dollars;
Current index	is the consumer price index as published by the Australian Bureau of Statistics available at the time of review of the contribution rate;
Base index	consumer price index is the Index name to be selected by the Council as published by Australian Bureau of Statistics at the date of adoption of this Plan which is insert index number at time of adoption.

Note: In the event that the Current consumer price index is less than the previous consumer price index, the Current consumer price index shall be taken as not less than the previous consumer price index.

**3.7 Are there allowances for existing development?**

Contributions will be levied according to the estimated increase in demand. An amount equivalent to the contribution attributable to any existing (or approved) development on the site of a proposed new development will be allowed for in the calculation of contributions. In assessing the value of existing and future development the following occupancy rates will be used:

- Dwelling houses and single vacant allotments – 1 ET (equivalent tenement), unless in the case of boundary adjustments where an additional opportunity for a dwelling house is created.
- Other dwellings –
  - 3 bedroom units – 1 ET
  - 2 bedroom dwellings – 67% ET;
  - 1 bedroom units – 50% ET
- Tourist development – 25% per bed

Where a development does not fall within any of the items noted above, the Council would determine the credit on the basis of the likely demand that the existing development would create.

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### **3.8 Staged Subdivision/Development**

In the event of a staged subdivision or development, Council will accept the staged payment of contributions as specified above.

### **3.9 Discount Factors**

Council may waive or reduce Developer Contributions ordinarily attributable to subdivision and development, where the proponent demonstrates to Council's satisfaction that, it is a non-profit and charitable organisation, which by virtue of carrying out such development, is considered by the Council to be making a significant and positive contribution to the community.

### **3.10 Pooling of contributions**

This plan expressly authorises monetary S94 contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

### **3.11 Savings and transitional arrangements**

A development application which has been submitted prior to the adoption of this plan but not determined shall be determined in accordance with the provisions of the plan which applied at the date of determination of the application.

# APPENDIX A – DEVELOPMENT AREA

Bundanoon Section 94 Catchment

