

**Report to General Manager**Attachments: Comparison of Contribution Rates  
Amended S94 Plan**SUBJECT:** Section 94 Contributions Plan 2003**AUTHOR:** Report of Asanthika Kappagoda, Strategic Planner, 3 December 2003**SUMMARY:**

At its meeting on 3 November 2003 Council adopted a Draft Section 94 Contributions Plan 2003 for exhibition. The draft Plan incorporates a comprehensive review of all Section 94 Plans, currently used by North Sydney Council, based on recent development trends and census data. The draft Plan, when adopted, will replace those existing Section 94 Plans and proposes revised levies for public facilities required as a result of development. Facilities that contributions are levied for include, cultural and recreational facilities, open space, streetscape and traffic improvements, public domain improvements for North Sydney and St Leonards Centres, Stanton Library extension and loss of affordable housing.

The Draft S.94 Plan was publicly exhibited from 6 November 2003 to 4 December 2003. Two submissions were received concerning the Draft S.94 Plan. This report considers issues raised during the exhibition period. The S.94 Plan is attached for adoption by Council.

**RECOMMENDATION:**

1. **THAT** Council consider the submissions received on the Draft Section 94 Plan 2003.
2. **THAT** Council adopt the Section 94 Contribution Plan attached to this report.
3. **THAT** public notice be given of the adoption of the Section 94 Contribution Plan 2003.
4. **THAT** all relevant parties be notified of Council's decision.

Signed \_\_\_\_\_

Endorsed by \_\_\_\_\_

SUSAN E FRANCIS

DIRECTOR PLANNING &amp; DEVELOPMENT SERVICES

**PUBLIC PARTICIPATION:  
TO BE REFERRED TO PRECINCTS**For information  For response

## **INTRODUCTION**

Section 94 of the Environmental Planning and Assessment Act 1979 enables councils to collect a contribution from developers, for meeting costs associated with the provision of facilities to meet the needs of an increase in resident and workforce population resulting from development. Monies spent by Council on public facilities must be apportioned and only that percentage of the expenditure that will serve the needs of the incoming versus existing population can be levied. A nexus must be drawn to demonstrate needs generated by the incoming population. The contributions in Section 94 Plans (S.94 Plan) are regularly indexed for increases in the CPI.

According to projections derived from the North Sydney Local Environmental Plan 2001 (NSLEP 2001), 2001 Census information and development trends, demand for housing and commercial space will continue to grow over the next ten years. As a result of the anticipated population growth, there will be additional pressure on existing facilities, thus reflecting a need to upgrade, maintain and improve such. The Draft S.94 Plan was developed for this purpose and incorporates a comprehensive review of all Section 94 Plans, currently used by North Sydney Council. The Draft S.94 Plan, when adopted, will replace those existing Section 94 Plans and proposes revised levies for public facilities required as a result of development.

Contributions levied under the Draft S.94 Plan include apportionments for cultural and recreational facilities (including community centres, library premises and equipment, library acquisitions, childcare, Olympic Pool, Multi-Purpose Indoor Sports Centre); open space (acquisitions and increased capacity); traffic management; affordable housing; public domain improvements (North Sydney Centre, St Leonards and other centres) and administration.

Once adopted, the S.94 Plan will operate for the period February 2004 to the end of 2013.

## **REVIEW OF SUBMISSIONS**

The Draft S.94 Plan was publicly exhibited from 6 November 2003 to 4 December 2003. Two submissions were received during this time, from Bike North Inc and the Property Council of Australia. The main issues brought up by the submissions are discussed as follows.

### **Bike North Inc.**

The main objection to the Draft S.94 Plan from Bike North Inc, is in regards to the general lack of reference to cycling to a significant degree, including cycling facilities and benefits of cycling. The submission considers that a nexus can be drawn between the increasing demand for cycling and increased development, considering that cycling to work for both residents and workers has increased significantly in North Sydney, according to an analysis of journey to work Census data from 1996 and 2001. The submission recommends the following:

#### **a) General**

- Provision of more detailed specification of funding for bicycle infrastructure projects
- Provision for the dedication of land for bicycle infrastructure as well as or in place of monetary contributions

- Any reference to providing facilities for pedestrians be extended to also provide facilities for cyclists

#### **b) Specific**

- Section 6- Cultural and Recreational Facilities
  - Include reference to the creation of a Foreshores Cycleway Recreational Facility
  - Include reference to a feasibility study for a future Rail Trail Cycleway along the existing Lavender Bay to Waverton Station shunting line, extending along the easement of the active railway line to the North Sydney LGA boundary
- Section 7-Open Space Acquisition and Increased Capacity
  - Include provision for cycling
  - Include reference to bicycle parking, cycle access paths and children's bicycle learning tracks as improvements that Council can make to open spaces
- Section 8- Public Domain Improvements
  - Include "increasing bicycle traffic" as factors necessitating public domain improvements
  - Re-do works schedule for North Sydney Public Domain to include some works related to bicycle access upgrade, change "one way bicycle lane" (under Strategies for Provision) to "contra flow bicycle lane"
  - Re-do Works Schedule for St Leonards Centre Public Domain to include works related to installation of contra flow bicycle lane and provision of bicycle parking facilities
- Section 9- Traffic
  - Include comments related to positive aspects of increasing pedestrian traffic rather than negative aspects of increasing (vehicular) traffic growth
  - Re-do Works Schedule to include specifically itemised works related to bicycles
  - Include provision for cycling
  - Rename section to "Transport and Traffic"

#### **Comment**

The Draft S.94 Plan includes general reference to upgrading bicycle facilities. However, the details of these upgrades need to be determined as specific projects are designed and implemented. Such projects include the partial closure of Atchison Street-as explained in the Public Domain Strategy for St Leonards, the detailed design of the bicycle lanes will be determined when design drawings for Atchison Street are drawn up by an engineer/designer. Similarly, details of bike lanes in the North Sydney Centre will be undertaken when the Public Domain Strategy for North Sydney Centre is implemented- the first stage of the implementation is a Traffic Management Plan which will consider bicycle lanes within the Centre.

There is an unallocated amount of S.94 for traffic improvements in the Plan, and some of this will be used for cycle improvements –details can be incorporated into the Plan when they are known. Strategic Planning will liaise with Council's Traffic Engineer to determine what these projects will be. As well some of the projects mentioned in the submission, would need to be funded out of Capital Works, rather than S.94, as these would be major new projects not required as a result of new development, and not justifiable under S.94.

## Property Council of Australia

### Nexus

A main objection to the Draft S.94 Plan is that it does not adequately demonstrate nexus. The submission does not consider that there is potential for an additional 250,000m<sup>2</sup> of commercial floor space in the North Sydney Centre, due to the limitations imposed by the composite shadow diagram. Therefore new development alone will not justify significant public domain improvements. In addition, the submission considers that the proposed levies pertaining to commercial development are high and unjustified. The submission also contends 5 years should be the maximum time for the delivery of services and facilities, rather than 10 years as stipulated in the Draft S.94 Plan.

### Comment

The Draft S.94 Plan *does* provide the nexus between new development and the need for improved and upgraded services and facilities as a result (see Nexus component of each section of the Plan). It identifies that the new controls for the North Sydney Centre allow for significant growth over the next 10 to 15 years. It is predicted that redevelopment will take place within North Sydney Centre, resulting in alteration of the character of the Centre.

Projections are based on estimations from a variety of sources, including NSLEP 2001, Residential Development Strategy and Department of Urban Affairs and Planning. The anticipated growth within the North Sydney Centre, and the additional pressures it brings with it are the catalyst for upgrading public services and facilities. Without this growth Council would not be undertaking any of the public domain works indicated in the S.94 Plan.

The NSLEP 2001 contains provisions relating to overshadowing whereby proposed controls are aimed at preventing an increase in overshadowing of special areas and open space, within the North Sydney Centre and of dwellings and open space outside the Centre. However the NSLEP 2001 also allows minor variations to the overshadowing provisions. Accordingly developments that cause overshadowing may be permitted by Council based on the merits of the development, public benefit to be gained from the development and as long as overshadowing relating to the development does not reduce the amenity of any land. A modelling exercise has been undertaken which shows that the required 250,000m<sup>2</sup> of commercial floor space can be achieved under the shadow controls.

When considering the proposed Section 94 levies under the Draft S. 94 Plan, it is evident that when compared to levies of the *current* Section 94 Plan, some levies have increased for the commercial component. However, considering the figures presented in section 5.3 (Commercial Growth) whereby projected increases over the next 10 years will bring an additional 10,563 workers into North Sydney Centre (net of workers who also live in North Sydney), the levies for the commercial component are justifiable. It should be noted that the levy for the North Sydney Centre (in the attached Plan) is approximately \$1,500 less than the adopted levy and the exhibited levy-due to revised public domain and open space contribution rates.

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A review of the Plan will be undertaken every 5 years to determine whether projected populations and needs are correct. In addition, the contribution rates listed in Appendix A of the Plan will be reviewed annually. As part of the review process, Council will determine whether services and facilities are delivered within a reasonable timeframe. The Plan will be adjusted accordingly. It is anticipated that it will take 10-15 years for the additional floor space within the North Sydney Centre. The implementation plan for the North Sydney Strategy will prioritise and projects will be undertaken as the contributions are raised so that contributors will not have to wait 10 years to see the outcome of their contribution.

### **Apportionment**

The submission considers that the proposed improvements to the public domain will benefit existing as well as new users of North Sydney Centre, as well as provide benefits to the general public and not just workers in the Centre. The submission recommends that Council consider raising a special rate levy on residential development in the entire LGA to raise funds for public domain improvements to North Sydney Centre.

### **Comment**

Taking into account that the current population has paid for existing facilities, services and infrastructure, it is appropriate that Council levy new developments for funding towards items that need to be upgraded or improved as a consequence of population growth due to the potential development. The Draft S.94 Plan does not levy new commercial developments for 100% of all public domain improvements. For instance, in the case of lighting infrastructure, public art and undergrounding power lines (see Table 8.1), Council has apportioned 35% of the levies to new development and will bear the remaining 65% of the total cost of new improvements. Those improvements that are apportioned 100% to S.94 are only being undertaken because of the additional development, they are only required because of the additional development and the subsequent increase in usage of the public domain.

A special levy on residential development in the entire LGA, therefore, is not considered valid considering that Council will pay for certain public domain improvements from Capital Works, where a significant portion of the funds comprise rates paid by residents.

### **Costing**

The submission considers that the costings in relation to public domain improvements have not been determined reasonably considering that the North Sydney Public Domain Strategy has just been placed on exhibition.

The submission further contends that the costings related to public open space improvements are unreasonable considering that there is no significant link between the need for open space identified and the equivalent value of increasing capacity of existing open space for the benefit of new development. Furthermore the submission considers that the Works Schedule for Open Space Increased Capacity is inadequate in detail related to the costings of works, and that items for which contributions are being sought comprise regular maintenance.

## **Comment**

The North Sydney Public Domain Strategy contains current estimates pertaining to public domain improvements which have been adopted by the Streetscape Committee. The costings are not “ball park” figures. The costings have been prepared with reference to figures from quantity surveyors and recent projects undertaken by Council.

As outlined in the Draft S.94 Plan, the high cost of land, compounded with the limited amount of land available to acquire indicates that the amount of open space required for the increased population is unrealistic. To ensure that the additional population does not result in a decrease in the level of service provision, it is recognised that the remainder of the total amount of open space required will be achieved through increasing capacity of existing open spaces. Improvements to open space, such as a new playground, seating, access pathways, bush clearing and regeneration, increases the usability of open space for a range of users, and thus increases the capacity of open space to accommodate additional users. It is considered that this provides a significant link between the need for open space and increasing capacity of open space for the benefit of the additional population.

The Works Schedule of Open Space Increased Capacity in the Draft S.94 Plan provides for new work only. The works will be additional to what is there now. No maintenance is provided for in the Plan. The cost of increased capacity is an average figure for a number of projects recently undertaken by Council, including Ernest Place and Bradfield Park, that have achieved increased capacity.

## **AMENDMENTS TO DRAFT S.94 PLAN**

A number of amendments have been made to the Draft S.94 Plan as a result of an internal consultation process conducted during the exhibition period. As these amendments were made during the exhibition period, some of the figures quoted in the Council report that accompanied the Draft S.94 Plan, are now incorrect.

Following the receipt of revised figures from the Director of Community and Library Services, costs and expenditure for Community Centre Facilities, Childcare, and Library Premises and Equipment have been recalculated. These revised calculations have been incorporated into the Draft S.94 Plan. In addition, changes to the number of properties to be acquired, have led to the recalculation of contribution rates for public open space acquisition and public open space increased capacity. The provision of revised figures concerning the costings of the North Sydney Public Domain Improvements has resulted in the recalculation of contribution rates. Minor errors have also been corrected pertaining to Public Domain Improvements-Other Centres and Administration section of the Draft S.94 Plan.

The amendments to the Draft S.94 Plan are discussed as follows.

### **Community Centres**

Whilst the Draft S 94 Plan was on exhibition, an updated quantity survey was obtained by Council, which provided revised cost estimates for the proposed community centres projects. This survey resulted in the cost of floor space for the community centres increasing from \$1,890,440 to \$3,005,500. Calculations contained within the Draft S.94 Plan have been subsequently modified to take account of this, and have resulted in increased contribution rates for both residential and commercial development. The contribution rate for residential development has increased from \$155.97 to \$247.97 per resident. The contribution rate for commercial development has increased from \$48.49 per worker (or \$242.45/100m<sup>2</sup>) to \$77.09 per worker (or \$385.45/100m<sup>2</sup>).

### **Childcare**

A number of childcare facilities were omitted from Table 6.3 Childcare Facilities in North Sydney; this was due to an error in data provided by the Community and Library Services Department and uncertainty as to whether certain childcare facilities could be levied. Upon further discussions with the Director of Community and Library Services, the table has been updated to include the Cammeray Occasional Care, Crows Nest Occasional Care, Grandstand Kindergarten and McMahons Point Occasional Care childcare facilities. The inclusion of these additional childcare facilities has resulted in the number of existing community based childcare places in North Sydney increasing from 452 to 552.

Calculations have subsequently been amended, with the overall number of childcare places required to service the additional childcare facility increasing from 72 to 88 additional places. The cost for the additional childcare places has increased from \$1,876,464 to \$2,293,456 (at a rate of \$26,062 per childcare place [unchanged]). The contribution rate for residential development has therefore increased from \$74.54 to \$94.61 per resident. The contribution rate for commercial development has increased from \$111.20 per worker (or \$556.01/100m<sup>2</sup>) to \$133.88 per worker (or \$669.40/100m<sup>2</sup>).

### **Library Premises and Equipment**

Council has been provided with revised figures pertaining to the cost of the proposed Stanton Library extension. The estimated cost of the extension has increased from \$1,829,334 to \$3,602,000. The contribution rate for residential development has therefore increased from \$128.57 to \$143.09 per resident. The contribution rate for commercial development has increased from \$43.69 per worker (or \$218.45/100m<sup>2</sup>) to \$47.79 (or \$238.95/100m<sup>2</sup>).

### **Public Open Space- Acquisition**

As Council is endeavouring to rezone some of the sites listed in Table 7.2 Properties for Acquisition, and following the gazettal of Amendment 8 (1 Bradly Ave), the number of properties to be acquired has been reduced. Subsequently the total land to be acquired (including Graythwaite) has decreased from 28,142m<sup>2</sup> to 20,901m<sup>2</sup>. The contribution rate for residential development has decreased from \$3,674.83 to \$1,559.58 per resident. The contribution rate for commercial development has decreased from \$135.79 (or \$627.75/100m<sup>2</sup>) to \$57.63 per worker (or \$288.15/100m<sup>2</sup>).

### **Public Open Space - Increased Capacity**

Due to the reduction of open space to acquire, the amount of open space that will be transferred to increased capacity has increased from 78,857m<sup>2</sup> to 86,098m<sup>2</sup>. Council's Open Space and Environment Department have also provided revised figures pertaining to the cost of increasing capacity, which has resulted in the cost per m<sup>2</sup> decreasing from \$300 to \$250. The contribution rate for residential development has therefore decreased from \$3,397.66 to \$3091.37 per resident. The contribution rate for commercial development has decreased from \$125.55 (or \$677.75/100m<sup>2</sup>) to \$114.23 (or \$571.15/100m<sup>2</sup>).

### **Public Domain Improvements- North Sydney Centre**

Council has been provided with revised figures pertaining to the cost of North Sydney Centre public domain improvements. The estimated cost for the public domain improvements has decreased from \$26,989,000 to \$23,989,000. The contribution rate for residential development has therefore decreased from \$1,557.90 to \$1285.17 per resident. The contribution rate for commercial development has therefore decreased from \$1,567.19 (or \$7,835.95/100m<sup>2</sup>) to \$1,292.84 (or \$6,464.20/100m<sup>2</sup>).

### **Public Domain Improvements – Other Centres**

A typographical error was made in the contribution rate for the minor centres, so that the total cost of works was shown as \$700,000 whereas, the description in the previous paragraph indicated that the total cost of works was \$7,000,000. The contribution rate for residential development has, therefore, been correctly shown as \$122.20 (rather than \$12.22 as exhibited). The contribution rate for commercial development has therefore, been shown correctly as \$611.00/100m<sup>2</sup> (rather than \$61.10 as exhibited).

### **Administration**

A minor error has been identified in relation to the works costings for the Administration section of the Draft S.94 Plan. In relation to the cost of aerial photographic surveys; two inconsistent amounts were quoted for the cost of this work. To clarify, the cost of the surveys is \$220,000 (not \$100,000 as quoted in the text of the Draft S.94 Plan).

### **CONCLUSION**

Under the provisions of the Environmental Planning and Assessment Act and Regulation, Council is able to make changes to the exhibited plan. The attached spreadsheet shows the difference in the total contribution rates, for each type of development, between the existing adopted plan, the exhibited plan, and the post exhibition plan attached to this report.

The contribution rates, in the attached Plan, for all development (except for St Leonards and Affordable Housing) have actually been reduced from those currently adopted. While the contribution rates for some community facilities have increased, this has been offset by reduction in the rates for Open Space Acquisition (due to less land being acquired), and in the North Sydney Public Domain rate (due to cheaper paving costs). The contribution rate for St Leonards commercial development has increased by \$500. However, commercial is not a major component of development in St Leonards, and the increase should not impact on development.

The Affordable Housing Levy does not apply to general development and, therefore, should not impede general residential and commercial development.

It is recommended that the amended Draft S.94 Plan, attached to this report, be adopted for implementation.