

# **Chatswood Central Business District**

## **Section 94A Development Contributions Plan 2011 (Now Repealed)**



**Willoughby City Council**  
**November 2011**

**(Repealed on 4 July 2019)**

## **TABLE OF CONTENTS**

<b>1.0</b>	<b>INTRODUCTION .....</b>	<b>2</b>
<b>2.0</b>	<b>SUMMARY SCHEDULES .....</b>	<b>3</b>
<b>3.0</b>	<b>ADMINISTRATION AND OPERATION .....</b>	<b>4</b>
<b>4.0</b>	<b>DEMAND FOR COMMUNITY INFRASTRUCTURE .....</b>	<b>11</b>
<b>5.0</b>	<b>DEFINITIONS .....</b>	<b>14</b>
	<b>ANNEXURE 1 – SUPPORTING DOCUMENTS.....</b>	<b>15</b>
	<b>ANNEXURE 2 – AMENDMENTS TO PLAN .....</b>	<b>16</b>
	<b>SCHEDULE 2 – SUMMARY OF WORKS.....</b>	<b>17</b>
	<b>ATTACHMENT 1 - MINISTERIAL DIRECTIONS UNDER SECTION 94E OF THE ACT .....</b>	<b>21</b>
	<b>ATTACHMENT 2 - CLAUSE 25J OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION.....</b>	<b>22</b>
	<b>ATTACHMENT 3 - COST SUMMARY REPORT .....</b>	<b>23</b>
	<b>ATTACHMENT 4 - DETAILED COST SUMMARY REPORT.....</b>	<b>24</b>
	<b>ATTACHMENT 5 - LETTER FROM MINISTER FOR PLANNING .....</b>	<b>25</b>

## 1.0 INTRODUCTION

Section 94A of the *Environmental Planning and Assessment Act 1979* [the Act] contains provisions that allow the Council to impose, as a condition of development consent or as a condition of a complying development certificate, a requirement that the applicant pay a levy of the percentage of the proposed cost of carrying out the development.

For Council to impose a condition under section 94A, a contributions plan that complies with clause 27(1) of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) must be in place.

The ***Chatswood Central Business District Section 94A Development Contributions Plan 2011*** authorises a condition of development consent or a complying development certificate to require the payment of a fixed levy.

The quantity of the levy and the types of development application which attract the levy are set out in other clauses of this Plan.

Levies paid to the Council will be applied towards the provision, extension or augmentation of public facilities, or towards recouping the cost of their provision, extension or augmentation.

The draft Plan applies to the Chatswood Central Business District (CBD) and repeals all existing Contributions Plans (S94 Plans) in so far as they apply to this land.

Nothing in this Plan is intended to limit the Council's power to impose a condition under section 80A of the Act or section 97 of the *Local Government Act 1993*.

The Chatswood CBD is required to increase employment potential from the current level of approximately 23,000 jobs to more than 30,000 jobs under the Metropolitan Strategy. In addition under both the Metropolitan Strategy and the Draft Inner North Subregional Strategy, Chatswood City centre is required to consolidate its role as a subregional retail destination, transport hub and a focus for culture, entertainment and the arts for the northern area of Sydney. Part of this is to also encourage mixed use development to increase its residential population around its fringes by a further 3,000 people. These demands on Chatswood are reflected in the Chatswood City Centre Vision and Strategy Plan and the development capacity embodied in Willoughby Local Environmental Plan 2011.

The growth must be supported by community infrastructure that ensures the environment for growth is encouraging for development and meets needs. It also requires the continued maintenance of the existing high standard of facilities and services provided in the centre and the public domain setting of the centre.

Council has received approval for application of a fixed levy on the cost of development of up to 3% to fund the required infrastructure to support the growth.

## 2.0 SUMMARY SCHEDULES

The following summary schedules are included in this Plan:

**Schedule 1** Summary of levy by development type.

**Schedule 2** Summary of works for which levies are required. The schedule was adopted in 2011 and provides an estimated cost of works and the estimated time frame for their implementation.

### **Schedule 1: Summary of section 94A levies by proposed cost of development**

Area	Proposed Cost of Development	Levy
The Chatswood CBD (See Map 1)	Up to and including \$100,000	Nil
	More than \$100,000 - up to and including \$200,000	0.5%
	More than \$200,000 – up to and including \$250,000	1%
	More than \$250,000	3%

#### **Notes:**

1. Clause 25K of the Environmental Planning and Assessment Regulation 2000 sets the maximum percentage of a section 94A levy as 1% of the proposed cost of carrying out the development.
2. Clause 25J of the Regulation provides the method for determining the proposed cost of development. Sub-clause 25J(2) provides that the Council may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the Council to provide such estimates. Refer to clause 3.8 of this Plan.
3. Refer to clause 3.4 of this Plan for applicable changes to the section 94A levy arising from any Ministerial direction under section 94E of the Act.
4. Refer to the Attachment at the end of this Plan for the content of relevant Ministerial directions. Copies or extracts from relevant Ministerial directions may be attached from time to time as administrative steps to assist with the interpretation and operation of this Plan.

### **Schedule 2: Summary of works**

This schedule is provided after Annexure 1

## **3.0 ADMINISTRATION AND OPERATION**

### **3.1 Name of the Plan**

This Plan is called *The Chatswood Central Business District (CBD) Section 94A, Development Contributions Plan 2011 (the Plan)*.

### **3.2 Purposes of the Plan**

The purposes of the Plan are:

- (a) To authorise the imposition of conditions on development consents, and complying development certificates, requiring that the applicant pay to the Council a levy determined in accordance with this Plan.
- (b) To ensure that adequate public facilities are provided to meet the demand created by development.
- (c) To assist the Council in the provision, extension or augmentation of public facilities.
- (d) To provide a comprehensive framework for the assessment, collection, expenditure, accounting and indexing of development contributions on an equitable basis.
- (e) To enable the Council to be both publicly and financially accountable in its assessment and administration of this Plan.

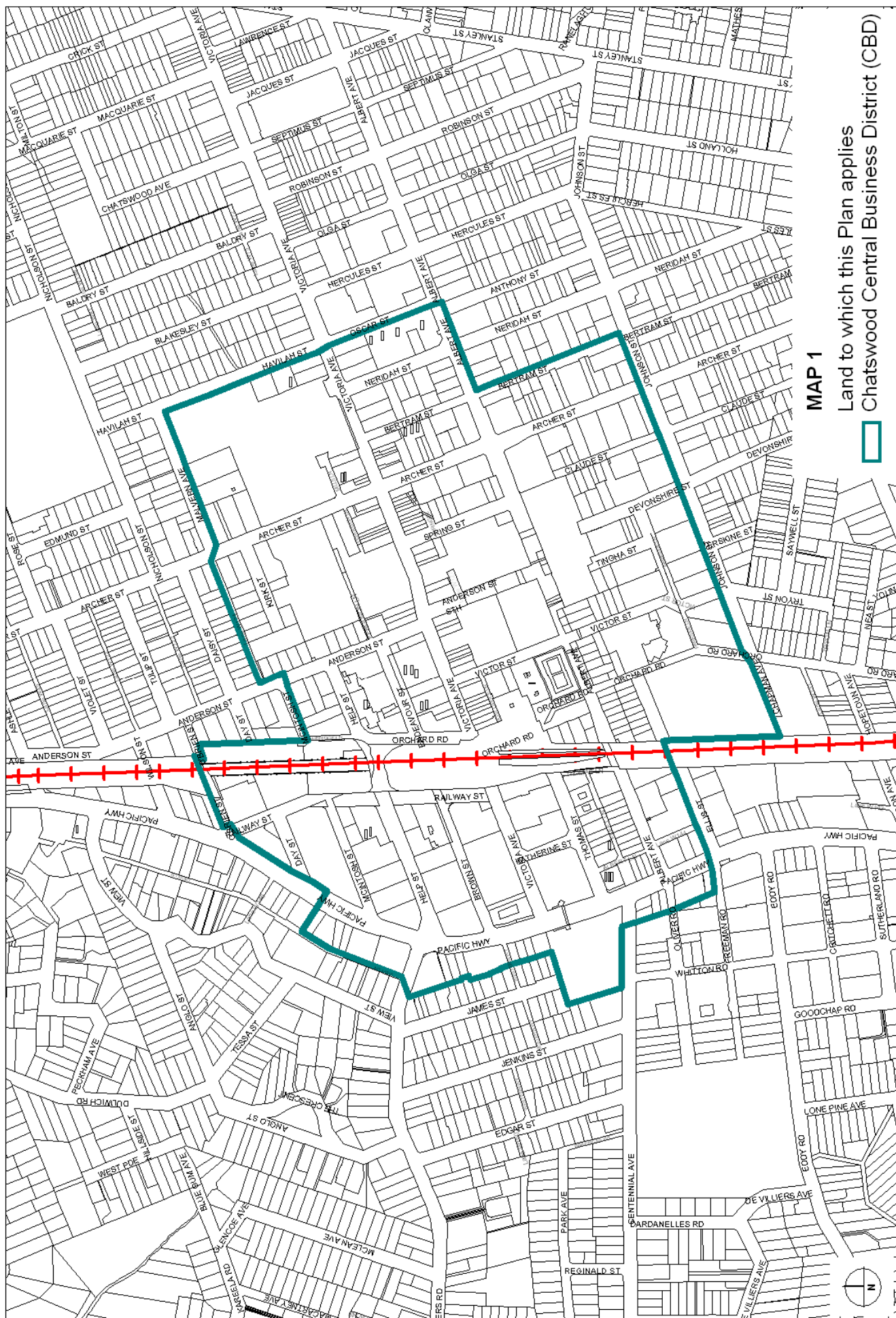
### **3.3 Land and development to which Plan applies**

#### **3.3.1 Land to which Plan applies**

This Plan applies to the Chatswood Central Business District (CBD) as shown on Map 1.

#### **3.3.2 Development to which Plan applies**

- a) This Plan applies to all development applications and applications for complying development certificates in respect of development on land to which this Plan applies, other than development:
  - (i) for the purpose of disabled access;
  - (ii) for the sole purpose of affordable housing;
  - (iii) for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building;
  - (iv) for the sole purpose of the adaptive reuse of an item of environmental heritage, or



- (v) other than the subdivision of land, where under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out.
- b) Council may, at its discretion, waive the requirements of this Plan for applications submitted by or on behalf of Willoughby City Council or community non-profit organisations for the provision of a public purpose or infrastructure and facilities for charitable organisations.

### **3.3.3 Transitional provision**

This Plan applies to an application for development or a complying development certificate which is made on or after the date on which this Plan is made. Applications made but not determined before this date, will be considered under the relevant existing Council S94 Plans.

## **3.4 *What this Plan authorises***

This Plan authorises the Council to impose conditions on development consents granted to development to which this Plan applies requiring the applicant to pay to the Council a levy of 0.5%, 1% or 3% of the proposed cost of carrying out the development, provided that the Council does not also impose on the consent a condition pursuant to section 94 of the Act.

This Plan requires a Certifying Authority to impose a condition on a complying development certificate for development to which this Plan applies, requiring the applicant to pay to the Council a levy of 0.5%, 1% or 3% of the proposed cost of carrying out the development in accordance with this Plan.

Conditions authorised by this Plan are subject to any direction given by the Minister under section 94E of the Act from time to time, and this Plan authorises the imposition of conditions which are in accordance with any such direction. Any relevant Ministerial direction under section 94E of the Act which has been made and is in force from time to time is included in the Attachment to this Plan.

## **3.5 *Repeal of Willoughby City Council Section 94 Contributions Plans***

This Plan has been prepared under the provisions of Part 4 Division 6 of the Act and Part 4 of the Regulation.

This plan repeals the following Willoughby City Council Section 94 Contributions Plans in so far as they apply to the land the subject of this Plan:

- Section 94 Contributions Plan Car Parking

- Willoughby City Council Section 94 Contributions Plan Childcare Facilities
- Section 94 Drainage Contributions Plan
- Willoughby Section 94 Contributions Plan for Open Space, Recreation and Community Facilities
- Willoughby City Council Section 94 contributions Plan for Road and Traffic/Transport Management.

### **3.6 Approval and commencement of Plan**

This Plan was approved by Willoughby City Council on 28 November 2011 and commenced on 27 July 2012

**Note:** Amendments carried out to this Plan are listed in the table contained in Annexure 2.

### **3.7 Calculating the levy**

The levy is calculated using the percentage rate set out in Schedule 1 “Summary of section 94A levies by proposed cost of development” (clause 2) and the proposed cost of development. The formula for calculating the levy is:

$$L = \%LR \times \$C$$

Where

<b>L</b>	is the levy payable
<b>%LR</b>	is the levy rate (see Schedule 1)
<b>\$C</b>	is the proposed cost of carrying out the development

### **3.8 Determining the proposed cost of development**

Clause 25J of the Environmental Planning and Assessment Regulation 2000 sets out how the proposed cost of carrying out development is to be determined in relation to the S94A levy (see Attachment 2).

A development application or an application for a complying development certificate must be accompanied by a report setting out an estimate of the proposed cost of carrying out development prepared as follows:

- (a) A Cost Summary Report in accordance with Attachment 3, prepared by the applicant or a person acting on behalf of the applicant, where the estimated proposed cost of development is up to and including \$500,000, (see Attachment 3) or
- (b) A Detailed Cost Summary Report in accordance with Attachment 4 prepared by a registered quantity surveyor engaged by or on behalf of the applicant, at the applicant's cost, where the proposed cost of development is in excess of \$500,000 (see Attachment 4).



The Council may, at the applicant's cost, engage a person referred to in this clause to review a report submitted by an applicant in accordance with clause 3.8.

Upon reviewing an estimated development cost provided under (a) or (b), the Council or Certifying Authority in the case of a Complying Development, may appoint a person to review the estimate provided by the owner, a person acting on behalf of the applicant or a quantity surveyor who was engaged by the applicant.

The review is to be undertaken at the applicant's cost.

**Notes:**

1. Refer to clause 3.13 for provisions relating to the adjustment of the proposed cost of development prior to the payment of a section 94A levy.
2. The quantity surveyor must be registered by the Australian Institute of Quantity Surveyors.
3. The review of a quantity surveyor's estimate must be provided by a person of equivalent qualifications.

### **3.9 *Payment of levy***

Payment of a section 94A levy is to be made in accordance with the terms of the condition imposed on the development consent or complying development certificate. Such conditions will generally require payment in accordance with paragraphs (a) to (d) below:

- (a) in the case of consent to complying development - before the notice to commence work is submitted to the Council.
- (b) in the case of consent to development where a subdivision certificate is required - before the subdivision certificate is issued.
- (c) in the case of consent to development where a construction certificate is required - before the construction certificate is issued.
- (d) in the case of any other development - before the occupation certificate issued.

The amount to be paid will be calculated at the indexed rate(s) applicable at the time of payment. Refer to clause 3.13.

### **3.10 *Application of levy***

Money paid to the Council under a condition authorised by this Plan is to be applied by the Council towards the cost of such of the public facilities listed in the Schedule 2 Summary of Works in this Plan.

### **3.11 *Priorities for the expenditure of money obtained from levies authorised by this Plan***

Subject to s93E(2) of the Act, the community infrastructure listed in Schedule 1 is to be provided in accordance with the staging set out in that Schedule.

### **3.12 *Planning agreement***

The Council may enter into a planning agreement under Section 93F of the Act with an applicant as an alternative to imposing a condition authorised by this Plan.

### **3.13 *Deferred or periodic payment***

Where the applicant makes a written request supported by reasons for payment of the section 94A levy other than as required by clause 3.9, the Council may accept deferred or periodic payment. The decision to accept a deferred or periodic payment is at the sole discretion of the Council, which will consider:

- (a) the reasons given;
- (b) whether any prejudice will be caused to the community deriving benefit from the public facilities;
- (c) whether any prejudice will be caused to the efficacy and operation of this Plan; and
- (d) whether the provision of public facilities in accordance with the adopted works schedule will be adversely affected.

Council may, as a condition of accepting deferred or periodic payment, require the provision of a bank guarantee where:

- (a) the guarantee is by an Australian bank for the amount of the total outstanding Contribution plus an amount equal to thirteen months interest plus any changes associated with establishing or operating the bank security.;
- (b) the bank unconditionally agrees to pay the guaranteed sum to the Council on written request by Council on completion of the development or no earlier than 12 months from the provision of the guarantee whichever occurs first;
- (c) the bank agrees to 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 in accordance with the development consent; and
- (d) 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.

Any deferred or outstanding component of the section 94A levy will be adjusted in accordance with clause 3.13.

The applicant will be required to pay any charges associated with establishing or operating the bank guarantee. Council will not cancel the bank guarantee until the outstanding contribution as indexed and any accrued charges are paid.

### **3.14 Adjustment of levies and proposed cost of development**

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

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

$$IDC = ODC \times CP2/CP1$$

Where:

IDC = the indexed development contribution payable

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

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

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

This Plan authorises a condition under section 94A of the Act that contains the above formula.

### **3.15 Pooling of levies**

For the purposes of s93E(2) of the Act, this plan authorises money obtained from levies paid in respect of different developments to be pooled and applied by the Council progressively towards the community infrastructure listed in Schedule 2 in accordance with the staging set out in that Schedule.

### **3.16 Construction certificates and certifying authority**

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 a section 94A levy before the work is carried out in accordance with the consent has been satisfied.

The certifying authority must ensure that the applicant provides a receipt(s) confirming that the levy has been fully paid. Where the certifying authority is not the Council, a copy of the receipt must be provided with the copies of the documentation submitted by the accredited certifier to the Council following determination of the construction certificate application.

The exception to this requirement may occur where the Council has agreed to the payment of the levy in a particular manner after a construction certificate is issued. In these cases, the accredited certifier must provide a copy of the agreement with the copies of documentation submitted to the Council following determination of the construction certificate application.

**Note:** An agreement referred to in this clause may or may not be a planning agreement under section 93F of the Act.

## **4.0 DEMAND FOR COMMUNITY INFRASTRUCTURE**

Chatswood CBD is the largest retail and office centre in Northern Sydney as well as being a transport hub. The expected consolidation and development of Chatswood City Centre over the next approximate 25 years will see it providing 140,000 m<sup>2</sup> of office floor space, 30,000 m<sup>2</sup> of retail floor space and 8,500 m<sup>2</sup> of additional meeting places / open space.

S94A Development Contributions levies required by condition of consent under this plan are to be applied to the provision, extension or augmentation of the following categories of 'Key Community Infrastructure' and 'Additional Community Infrastructure' located in Chatswood CBD:

- CBD road intersections upgrading;
- CBD road widening;
- CBD footpath upgrades;
- Pacific Highway upgrades in conjunction with RTA (road widening and intersection upgrades);
- Chatswood Mall renovation
- Open spaces for relaxation by workers, residents and visitors;
- Recreational and cultural facilities and local social facilities (being community and child care centres and volunteer rescue and volunteer emergency services facilities);
- Public car parking facilities;
- Drainage and stormwater management works;

- Provision for cultural activities and the arts:
- District infrastructure where there is a direct connection with the development to which the contribution relates.

Demand for the Community Infrastructure has been identified by a series of studies, surveys and investigations, which are listed in Part F – References... The levy will contribute to the costs of monitoring, review and further research and study where required.

The facilities are required to maintain and grow the Centre's capacity for employment, economic development and housing on its fringes as required by the Metropolitan Strategy, Inner North Sub-Regional Strategy and Chatswood City Centre Vision and Strategy. It is required for the Centre to fulfil its role within the Greater Sydney Area noting the following:

1. Council is significantly increasing the development potential for premium grade office projects in the Chatswood CBD through the new draft Willoughby Local Environmental Plan (LEP) 2011 and Willoughby Development Control Plan (WDCP) controls. This will create jobs in the construction industry, provide for office employment growth and take advantage of the new bus-rail transit services for employees. The potential for Chatswood is to increase office floor space by more than 140,000m<sup>2</sup> and retail floor space by 30,000 m<sup>2</sup>. Around the fringes of the centre the potential increase in dwellings in mixed use development is more than 1,400 dwellings.
2. Chatswood CBD is the largest retail and office centre in Northern Sydney. Its strategic location within the "global arc" of Sydney and its role as a transport hub with pivotal links to Sydney CBD, northern and western Sydney and the Central Coast means it has an important sub-regional role. It holds a recognised position within the hierarchy of centres within Sydney.
3. The draft WLEP 2011 and WDCP provisions capitalise on the key drivers that make Chatswood attractive to business - proximity to a qualified labour pool, good transit access and access to regional arterials, its identity as a sub-regional business centre, good urban design and street amenity, competitive land values and good infrastructure.
4. Chatswood is also the main centre for the City of Willoughby and provides the business and services for Willoughby's hinterland.
5. There are key community infrastructure constraints in Chatswood CBD that require upgrading and expansion to cater for the expected growth in demand.
6. Chatswood CBD has areas of poor streetscape/urban design including the need to renovate and retrofit to accommodate impacts of the Chatswood Railway Station and Interchange development (for example – The Victoria Avenue Mall, Railway Street, Thomas Lane). There are capacity constraints on Pacific Highway and internal road intersections and degraded stormwater and other infrastructure. There is the need to provide expanded open space and community facilities to meet projected demand in the CBD, that is, more than 7,000 new employees and 3,000 new residents.

7. In order to fund the necessary works, Council sought and was granted approval by the Minister of Planning to apply an indirect levy (S.94A) of up to 3% on development. The Minister's decision as noted in the letter of advice dated 24 March 2010 (Attachment 5) was based on the understanding that Willoughby Local Environmental Plan 2011 (the principle LEP) will achieve its employment capacity target of 30,000 jobs for Chatswood CBD under the Metropolitan Strategy, and in recognition of the Centre's key sub-regional functions as a retail destination, transport hub and focus for the arts. These functions were noted to require an appropriate level of investment by Council in public infrastructure and services.

#### **4.1 Development Form and demand**

The Metro Strategy, the Inner North Subregional Strategy, the Willoughby City Strategy and the Chatswood City Centre Vision and Strategy identify and draft Willoughby LEP 2011, provide opportunities for additional development that will generate demand for Key Community Infrastructure.

The expected development opportunities which will generate the demand for Key Community Infrastructure include:

- Shop top Housing
- Mixed Use development
- Commercial development including retail, business and office premises
- Alterations and additions to mixed use and commercial development
- Changes of use

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

- the likely population and employment growth previously identified in this Plan that will require the provision of additional public facilities to meet additional demand.
- the likely population and employment growth will diminish the enjoyment and standard of public facilities for the existing population unless additional facilities are provided to meet the additional demand.
- the resulting increased investment in private sector developments including rebuilding and expansion of developments creates community demands and expectations for increased and improved investment in public facilities.

The Chatswood CBD S94A Development Contributions levy will assist Council to provide high quality and diverse public facilities for the new workers, businesses and residents of Chatswood.

## 5.0 DEFINITIONS

<b>ABS</b>	the Australian Bureau of Statistics.
<b>Accredited Certifier</b>	the holder of a certificate of accreditation as an accredited certifier under the <i>Building Professionals Act 2005</i> in relation to those matters.
<b>Applicant</b>	a person, company or organisation submitting a development application or an application for a complying development certificate or a person, company or organisation authorised to act on a consent type.
<b>Contributions Plan</b>	a Contributions Plan approved under the Environmental Planning and Assessment Act 1979.
<b>Council</b>	the Council of the City of Willoughby.
<b>CPI</b>	Sydney All Groups Consumer Price Index as published by the Australian Bureau of Statistics
<b>Key Community Infrastructure</b>	public amenities and public facilities and services, but does not include water supply or sewerage services.
<b>Public facilities</b>	public amenities or public services as referred to in section 94A of the Act.
<b>Planning agreement</b>	a voluntary agreement referred to in section 93F [of the Act] (section 93C of the Act).
<b>Proposed cost of development</b>	the cost of development proposed in a development application or a complying development application as determined by the Council under the provisions of clause 25J of the Regulation.
<b>Section 94A levy</b>	a fixed development consent levy under section 94A of the Act.
<b>The Act</b>	the <i>Environmental Planning and Assessment Act 1979</i> as amended.
<b>The Regulation</b>	the <i>Environmental Planning and Assessment Regulation 2000</i> as amended.
<b>Works in Kind</b>	the construction or provision of the whole or part of a public facility that is identified in a works schedule in a contributions plan.

## **ANNEXURE 1 – SUPPORTING DOCUMENTS**

- Willoughby City Strategy
- Willoughby City Strategy Discussion Paper - Housing
- Willoughby City Strategy Discussion Paper – Access and Infrastructure
- Willoughby City Strategy Discussion Paper – Natural Environment
- Willoughby City Strategy Discussion Paper – Community and Cultural Life
- Willoughby City Strategy Discussion Paper – Economy and Education
- Willoughby City Strategy Discussion Paper - Governance
- Willoughby City Council – 2011 – 2015 Delivery Programme
- Willoughby Local Environmental Plan 1995 / Draft Willoughby Local Environmental Plan 2011
- Willoughby Development Control Plan
- Willoughby Social Plan 2005-2009
- Willoughby City Council Integrated Transport Plan 2001
- Willoughby Bike Plan
- Willoughby City Council Open Space Plan 1996
- Willoughby City Council Recreation Plan 1993
- Plan of Management – Castle Cove Park and Golf Course
- Plan of Management – Chatswood Parks Central Business Districts
- Plan of Management – Cortile Reserve Castlecrag (May 2003)
- Plan of Management – Middle Harbour Ward Parks (May 2003)
- Plan of Management – Northbridge Ward Parks (May 2003)
- Plan of Management – Chatswood West Parks (May 2003)
- Plan of Management – Urban Bushland
- Willoughby Sustainability Charter
- Willoughby City Council Sustainability Action Plan 2011 - 2015
- Environmental Management Plan for the City of Willoughby - 2000
- Council Property Plan
- NSW Department of Planning Development Contributions Practice Note December 2006



## ANNEXURE 2 – AMENDMENTS TO PLAN

Amendment No.	Dates of approval and commencement	Clauses Amended	Description of amendment
1	Adopted 13 February 2017 Commenced 2 March 2017	Clause 3.14 Adjustment of Levies and proposed cost of development  Clause 5.0 Definitions	The amendments relate solely to the method of indexing contribution fees. References to the now discontinued  <i>“Building Price Index (Enterprise Bargaining Agreement) published by NSW Public Works”</i>  replaced with the  <i>“Consumer Price Index (CPI) Sydney – All Groups as published by the Australian Bureau of Statistics”</i> .

Note This table of amendments does not form part of the approved Chatswood Central Business District Section 94A Development Contributions Plan 2011. It is provided to assist with interpretation and will be changed from time to time as amendments are made.

## SCHEDULE 2 – SUMMARY OF WORKS

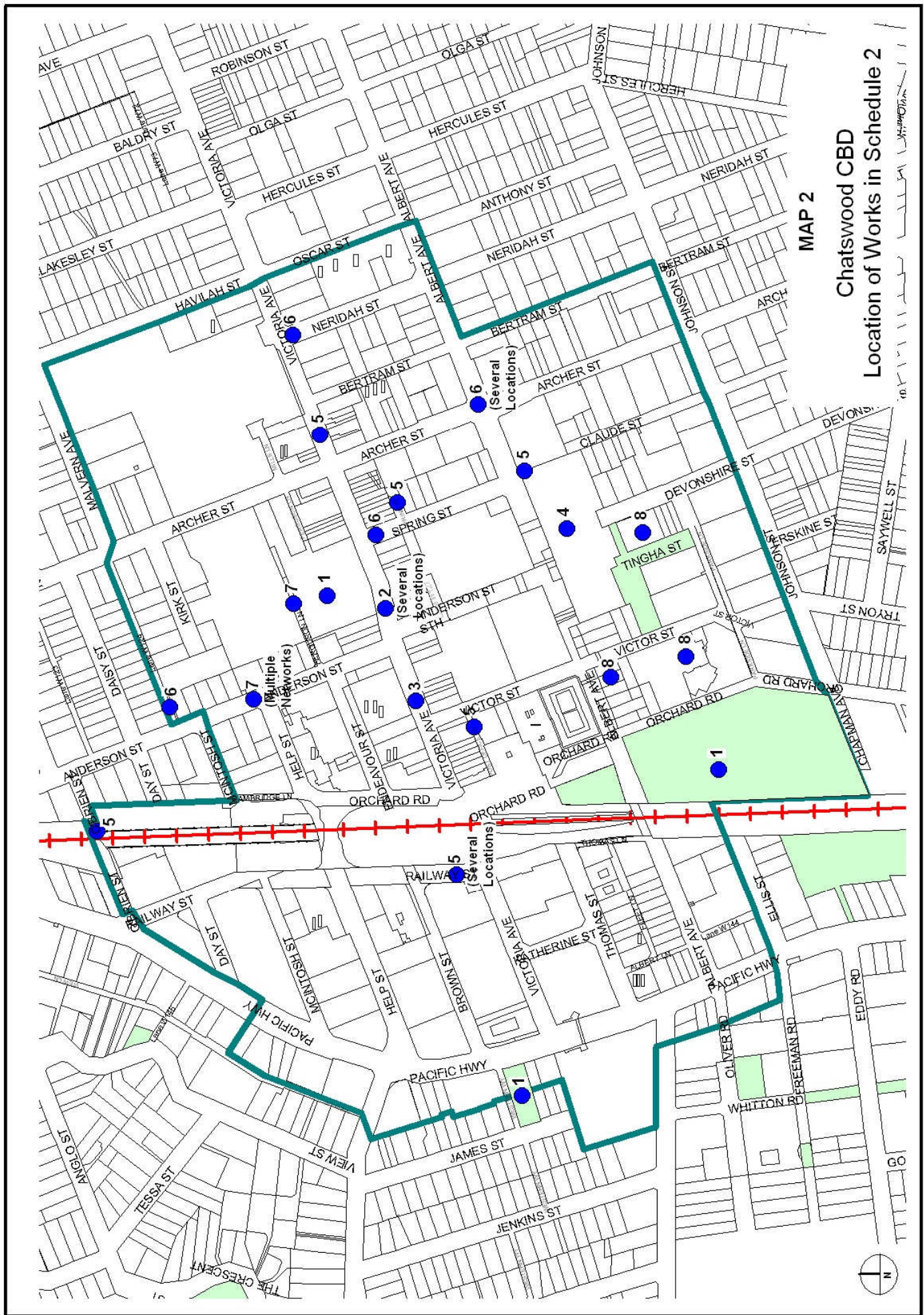
Levies paid to Council under this Plan will be applied towards meeting the cost of provision or augmentation of key community infrastructure. The following works schedule provides a summary of new public facilities, which will be provided by Council over the next 5-10 years as well as the estimated cost of provision and timing.

**MAP 2** is a Location Plan of the public facilities listed in the Works Schedule.

Map Ref	Project	Total Cost of Works	Time Frame
			Short 1-3 yrs Medium 3-5 yrs Long 5-7 yrs
<b>1</b>	<b>CBD Open Space</b>	\$15,000,000.00	
1.1	Kenneth Slessor Park		Medium
1.2	Chatswood Park		Long
2.3	The Concourse Level 1 and Podium		Short
<b>2</b>	<b>CBD Public Domain Works</b>	\$15,000,000.00	
2.1	Victoria Avenue Works		
2.1.1	<ul style="list-style-type: none"> <li>Continuation of Victoria Avenue Paving to Havilah/Oscar St</li> </ul>		Medium
2.1.2	<ul style="list-style-type: none"> <li>Street Trees</li> </ul>		Short
2.1.3	<ul style="list-style-type: none"> <li>Undergrounding of Cables</li> </ul>		Long
2.1.4	<ul style="list-style-type: none"> <li>Provision of Smart Poles</li> </ul>		Medium
2.2	<ul style="list-style-type: none"> <li>CBD Gateway Landscaping</li> </ul>		Medium
2.3	<ul style="list-style-type: none"> <li>Chatswood Information Signage</li> </ul>		Short
2.4	Streetscape Improvements on all Secondary Streets		Short
2.4.1	<ul style="list-style-type: none"> <li>Footpath Widening</li> </ul>		Medium
2.4.2	<ul style="list-style-type: none"> <li>Street Furniture</li> </ul>		Medium
2.4.3	<ul style="list-style-type: none"> <li>Street Trees</li> </ul>		Medium
2.4.4	<ul style="list-style-type: none"> <li>New Paving</li> </ul>		Medium
2.4.5	<ul style="list-style-type: none"> <li>Smart poles</li> </ul>		Medium
<b>3</b>	<b>Chatswood Mall</b>	\$10,000,000.00	

3.1	Upgrade as result of Chatswood Transport Interchange (CTI) in Victoria Ave and Orchard Rd		Short
3.2	Orchard Road and Railway St repaving		Short
3.3	Upgrade Mall as CTI - The Concourse Linkage		Short
<b>4</b>	<b>Parking</b>	<b>\$1,000,000.00</b>	
4.1	Albert Avenue carpark alterations and upgrade to improve circulation and efficiency of access		Short
4.2	Albert Avenue Carpark Extensions to increase Capacity	<b>\$6,000,000.00</b>	Medium
<b>5</b>	<b>Pedestrian Works</b>		
5.1	Railway St	<b>\$2,000,000.00</b>	
5.1.1	<ul style="list-style-type: none"> <li>Pedestrian Signals</li> </ul>		Short
5.1.2	<ul style="list-style-type: none"> <li>Shared Zone</li> </ul>		Medium
5.1.3	<ul style="list-style-type: none"> <li>Streetscape</li> </ul>		Medium
5.1.4	<ul style="list-style-type: none"> <li>Upgrade Adjacent to Station / bus pickup locations.</li> </ul>		Medium
5.2	Laneways and Through Site Links	<b>\$3,000,000.00</b>	
5.2.1	<ul style="list-style-type: none"> <li>Upgrade of existing Links</li> </ul>		Medium
5.2.2	<ul style="list-style-type: none"> <li>Post Office Lane</li> </ul>		Medium
5.2.3	<ul style="list-style-type: none"> <li>Spring Lane Link</li> </ul>		Medium
5.2.4	<ul style="list-style-type: none"> <li>Claude St-Albert Avenue Link</li> </ul>		Medium
5.4	Extension of 'missing' links such as O'Brien Street		Long
<b>6</b>	<b>Road Works</b>	<b>\$30,000,000.00</b>	
6.1	Albert Avenue		Long
6.2	Archer St		Medium
6.3	Victoria Avenue		Medium
6.4	Neridah St		Long
6.5	Close Spring St at Victoria Avenue		Medium
6.6	Northern By-pass to Victoria Avenue linking Help St to Malvern Avenue		Long
6.7	Expand Taxi Facilities		Short
6.8	Road Widening and Intersection upgrades		
6.8.1	<ul style="list-style-type: none"> <li>Oscar St</li> </ul>		Medium

6.8.2	<ul style="list-style-type: none"> <li>Thomas Lane</li> </ul>		Medium
6.8.3	<ul style="list-style-type: none"> <li>Archer / Albert intersection</li> </ul>		Medium
6.8.4	<ul style="list-style-type: none"> <li>Albert / Spring intersection</li> </ul>		Medium
6.8.5	<ul style="list-style-type: none"> <li>Circulation changes to improve efficiency</li> </ul>		Medium
<b>7</b>	<b>Stormwater</b>		
7.1	Amplification and upgrade including retention and reuse	\$6,500,000.00	Short
<b>8</b>	<b>Community Facilities</b>		
6.8.1	<ul style="list-style-type: none"> <li>Youth Centre Alterations and Additions and Relocation of MOSAIC</li> </ul>	\$15,000,000.00	Long
6.8.2	<ul style="list-style-type: none"> <li>Devonshire St and Victor St Alterations and Expansion</li> </ul>	\$8,000,000.00	Medium
		<b>\$111,500,000.00</b>	



# ATTACHMENT 1 - MINISTERIAL DIRECTIONS UNDER SECTION 94E OF THE ACT

## ATTACHMENT: 1

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

#### DIRECTION UNDER SECTION 94E

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

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

(2) Despite subclause (1), a levy under section 94A of the Act cannot be imposed on development:

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

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

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



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

#### SCHEDULE A

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



## ATTACHMENT 2 - CLAUSE 25J OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION

### ATTACHMENT: 2

#### 25J Section 94A levy—determination of proposed cost of development

- (1) The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:
  - (a) if the development involves the erection of a building, or the carrying out of engineering or construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,
  - (b) if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,
  - (c) if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.
- (2) For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.
- (3) The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:
  - (a) the cost of the land on which the development is to be carried out,
  - (b) the costs of any repairs to any building or works on the land that are to be retained in connection with the development,
  - (c) the costs associated with marketing or financing the development (including interest on any loans),
  - (d) the costs associated with legal work carried out or to be carried out in connection with the development,
  - (e) project management costs associated with the development,
  - (f) the cost of building insurance in respect of the development,
  - (g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),
  - (h) the costs of commercial stock inventory,
  - (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,
  - (j) the costs of enabling access by disabled persons in respect of the development,
  - (k) the costs of energy and water efficiency measures associated with the development,
  - (l) the cost of any development that is provided as affordable housing,
  - (m) the costs of any development that is the adaptive reuse of a heritage item.
- (4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.
- (5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.

## ATTACHMENT 3 - COST SUMMARY REPORT

### COST SUMMARY REPORT

Development Cost no greater than \$500,000

DEVELOPMENT APPLICATION Io: \_\_\_\_\_

COMPLYING DEVELOPMENT CERTIFICATE APPLICATION No: \_\_\_\_\_

CONSTRUCTION CERTIFICATE No: \_\_\_\_\_ Date: \_\_\_\_\_

APPLICANTS NAME: \_\_\_\_\_

APPLICANTS ADDRESS: \_\_\_\_\_

DEVELOPMENT NAME: \_\_\_\_\_

DEVELOPMENT ADDRESS: \_\_\_\_\_

#### ANALYSIS OF DEVELOPMENT COSTS:

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

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

I certify that I have:

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

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position and Qualifications: \_\_\_\_\_



## ATTACHMENT 4 - DETAILED COST SUMMARY REPORT

### REGISTERED\* QUANTITY SURVEYOR'S DETAILED COST REPORT

Development Cost in excess of \$500,000

\*A member of the Australian Institute of Quantity Surveyors

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

#### DEVELOPMENT DETAILS:

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

#### ESTIMATE DETAILS:

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

I certify that I have:

- Inspected the plans the subject of the application for development consent or construction certificate.
- Prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors.
- Calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions Plan of the Council of Willoughby City at current prices.
- Included GST in the calculation of development costs.
- Measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Position and Qualifications: \_\_\_\_\_

## ATTACHMENT 5 - LETTER FROM MINISTER FOR PLANNING

### ATTACHMENT: 5



Mr Nick Tobin  
General Manager  
Willoughby City Council  
PO Box 57  
Chatswood NSW 2057

09/03157

Attn: Mr Greg Woodhams

Dear Mr Tobin

I am writing to inform you that the previous Minister for Planning supported Willoughby Council's proposal to set the following levy for Chatswood Major Centre, under section 94A of the *Environmental Planning and Assessment Act 1979*:

Proposed cost of carrying out the development	Maximum percentage
Up to and including \$100,000	Nil
More than \$100,000, up to and including \$200,000	0.5%
More than \$200,000, up to and including \$250,000	1%
More than \$250,000	3%

This decision was based on the understanding that the *draft Willoughby Local Environmental Plan 2009* (the principal LEP) will achieve its employment capacity target of 30,300 jobs for Chatswood under the *Metropolitan Strategy*, and in recognition of the centre's key subregional functions as a retail destination, transport hub, and focus for the arts. These functions require an appropriate level of investment in public infrastructure and services.

I encourage Council to include advice that the above levy has been agreed to with the exhibition of the principal LEP.

As you are aware, the *Environmental Planning and Assessment Regulation 2000* sets the maximum percentage of a section 94A levy at 1% of the proposed cost of development. It is proposed that the higher levy will be achieved through an amendment to the EP&A Regulations, following gazettal of the principal LEP.

The variation to the maximum percentage of the s94A levy was approved on the basis of the schedule of works provided in Council's submission. Any variation to these works will require Ministerial approval under the new Part 5B of the EP&A Act 1979, when enacted.

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney  
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website [planning.nsw.gov.au](http://planning.nsw.gov.au)



## Planning

Details of the new Part 5B provisions are contained in the *Draft Local Development Contributions Guidelines* and *Policy Statement on Development Contributions*, circulated for comment in December 2009. However amendments may be made to the guideline document and policy statement following current consultation.

Should you have any further enquiries about this matter, I have arranged for Ms Susan Sky, Team Leader, Sydney Region East of the Department of Planning to assist you. She can be contacted on (02) 9228 6229.

Yours sincerely



24/3/10

Tom Gellibrand  
**Deputy Director General**  
**Plan Making and Urban Renewal**