

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 April 2016

PE2 - Review of the Dedication of Lands Policy

PE2

Review of the Dedication of Lands Policy

263081

TRIM 8039

EXECUTIVE SUMMARY

- This report seeks a resolution from Council to exhibit some changes to the Dedication of Land Policy (PLA0036).
- The most significant change is the inclusion of a clause requiring a monetary contribution for maintenance of land management works, such as on site detention (OSD) basins, proposed for dedication to Council.
- Other relatively minor changes are also proposed to the Policy as shown in Attachment 1 to this report.
- The contribution is to be calculated according to a formula included in the Draft Policy which references an Indicative Cost Schedule included as an attachment to the Policy.
- It is recommended that Council:
 - Agree to the exhibition of the attached draft Policy
 - Adopt the Indicative Cost Schedule included in Attachment 1 as its best practice approach to seeking a maintenance contribution for onsite detention basins on land proposed to be dedicated to Council
 - Consider a further report on the matter following the completion of the public consultation period.

REPORT

Council's "Dedication of Land Policy" (PLA 0036) was adopted in June 2014. The Policy defines three (3) types of lands that it may accept by dedication and includes matters for consideration by Council in deciding whether or not to accept the dedication of these lands. The three types of land are infrastructure land, environmental land and community land.

One of the most significant inclusions in the current Policy is the requirement for a monetary contribution for maintenance purposes for land that is being dedicated to Council as environmental land. The amount required is equal to 35 years of annual maintenance works on land.

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The Policy does not presently include a similar requirement for land dedicated to Council as infrastructure or community land. However, it has become clear that there is a need to include this requirement for some categories of infrastructure land, in particular, lands that contain stormwater management works such as OSD and / or water quality basins. Once the land has been transferred to Council, the onus is upon Council to maintain these lands.

In order to offset this liability, it is proposed to amend the Policy to include a requirement for a monetary contribution to be made towards the maintenance of the OSD basins (and other stormwater management facilities). The contribution that will be sought will be based on a "Cost to Serve" approach, and Council will use the Indicative Cost Schedule included as Attachment 1 of the draft Policy as its basis for determining the contribution. This schedule includes the maintenance requirements of most OSD basins. The maintenance costs for each item are based on Council's experience and will be considered by Council as its "reference costs" for the maintenance of OSD basins. However, in some circumstances, it will be necessary to vary these costs, and the maintenance works required depending on site conditions and the maintenance requirements of the device being maintained. As a result Council retains the discretion to vary both the items and the costs included in this Schedule when determining an appropriate contribution amount.

To complement these changes it is also proposed to amend the methodology included in the Policy by which the contribution amount is calculated. The formula presently included in the Policy (and which applies to the maintenance contribution for environmental lands) provides for an amount equivalent to 35 years worth of annual maintenance. However this approach is not considered suitable for funding the maintenance of OSD basins, partly because it does not include an allowance for the indexation of the annual maintenance cost. As a result it does not provide Council with the funds necessary to ensure long term maintenance of these structures.

It is proposed to amend the approach for collecting the contribution so that it includes annual CPI adjustments, although the maintenance period will be reduced from 35 to 30 years. It will also be a requirement that the developer undertake maintenance of the structure (and land to be dedicated) for the first five (5) years after dedication occurs, with payment of the contribution being required before the last subdivision certificate is issued or the land is transferred to Council.

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The amended approach is expected to provide for a sufficient income stream to generate funds for 35 years worth of maintenance. This is considered appropriate and consistent with the principle of inter-generational equity as it will ensure that some money will be available for the next generation to fund the maintenance. Should an applicant consider that the payment of this money is onerous, an option available to the applicant is to retain the land containing the OSD structures in private ownership under a community title scheme and maintain the asset in perpetuity.

It is also proposed to apply this formula to calculating the maintenance contribution for environmental lands. However a Cost Schedule has not been included in the Policy for these lands due to the extreme variability in their condition. As a result the annual maintenance costs for environmental lands will continue to be calculated on a site specific basis.

Where land dedication is proposed, the maintenance contribution can be provided to Council through a Voluntary Planning Agreement prepared under s93F of the *Environmental Planning and Assessment Act*, and in accordance with Council's Planning Agreements Policy.

The amendment described above is the most significant. Some other amendments are also being proposed to the current Policy. These changes, and the rationale for them are included in the Table of Changes that is attached to this report.

CONSULTATION

Consultation has occurred with Council's Land and Property Panel who are supportive of the proposed amendments. Consultation has also been undertaken with the Manager Infrastructure Planning and Manager Finance. The public exhibition of the Draft Policy as recommended in this report will provide for feedback from the general public and the development industry about the proposed changes.

FINANCIAL IMPLICATIONS

The proposed amendments will have positive financial implications for Council as it will make the developer bear the cost of maintaining the OSD basins. As shown in the Indicative Cost Schedule, this is estimated at approximately \$5930 per annum for each basin, so without the offsetting mechanism provided through this Policy, the costs to Council in accepting such lands will become significant over time. The amendment of the formula for calculating the contribution amount to include CPI increases will further improve Council's ability to fund these structures over the long term.

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ATTACHMENTS

1. Summary of proposed Changes Table – Dedication of Land Policy TRIM 8039#19
2. Draft Dedication of Land Policy showing proposed amendments TRIM 8039#20

CONCLUSION

The Dedication of Land Policy has been in operation for almost two years. It is now opportune to review its effectiveness and to redress any shortcomings. The need for the proposed amendment requiring a monetary contribution to maintain land dedicated for stormwater management purposes has arisen as a result of a heavy maintenance burden incurred by Council. The other amendments proposed will help ensure that only appropriate lands are accepted by council as land dedications.

RECOMMENDATION

1. That Council exhibit the attached Draft Dedication of Lands Policy.
2. That Council adopt the formula included in Clause 4.5.1 of the Draft Policy and the Indicative Cost Schedule included in Attachment 1 as its approach to seeking a maintenance contribution until the Policy is adopted in final form.
3. That consideration be given to a further report on the matter following the completion of the public consultation period.

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SUMMARY OF CHANGES – DEDICATION OF LAND POLICY

Location	Previous Wording	New Wording (Changes shown in red text)	Reasoning
Section 1 – Policy Objectives			
Cls 1.6	n/a – new clause (current clause 1.6 renumbered to clause 1.7)	To ensure that lands to be dedicated to Council for drainage and stormwater management purposes are provided with a source of funds for the maintenance of those lands	To clarify that one of the objectives of the policy is to provide a source of funds to maintain lands dedicated to Council for stormwater management purpose.
Cls 1.7	To achieve, in a balanced way, the objectives CO1, GO5, GO6, EN1, EN2, EC3, EC4, EC5, IN1, IN2, IN3, IN4, of the Wollondilly Community Strategic Plan 2011.	To achieve, in a balanced way, the objectives of the Wollondilly Community Strategic Plan.	To simplify the implementation of the community strategic plan.
Cls 2.4	n/a – new clause	Similarly, land that is dedicated to Council for some infrastructure related purposes (eg for drainage or stormwater management) can also impose high maintenance costs on Council;	Provides a rationale for seeking a maintenance contribution for lands to be dedicated to Council for stormwater management purposes
Cls 2.5	n/a – new clause	This policy provides a framework for managing the dedication of these types of land, so that Council is not burdened unreasonably by the maintenance of these lands.	Clarifies the reasons for seeking a maintenance contribution for environmental lands and lands used for stormwater management
Section 3 – Eligibility			
3.2	n/a – new clause	This Policy does not apply to lands proposed to be dedicated to Council under Section 94 of the Environmental Planning and Assessment Act (the Act). (Note that the Wollondilly Development Contributions Plan 2011, and future contributions plans) outline the matters that Council will consider when deciding whether or not to accept the dedication of land under Section 94 of the Act).	Clause included based on legal advice that the Policy cant apply to lands dedicated subject to a Section 94 plan
Section 4 – Guidelines			
4.1.1 Infrastructure lands			
CI 4.1.1	Infrastructure Land Infrastructure land	Infrastructure Land Infrastructure land includes land	

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	includes land to be dedicated for roads, pedestrian pathways, stormwater management and treatment, car parking, emergency management, administration facilities, community services facilities, depots and other like purposes. This category may include operational land.	to be dedicated for roads, pedestrian pathways, drainage and stormwater management and treatment, car parking, emergency management, administration facilities, community services facilities, depots and other like purposes. This category may include operational land	Includes drainage in category of infrastructure land
CI 4.2	Infrastructure and Community land To ensure only suitable land is dedicated to Council, it will only accept the dedication of land for infrastructure and/or community purposes if:	Matters for Consideration To ensure only suitable land is dedicated to Council, the following matters will be considered in deciding whether or not to accept the dedication of land to Council for environmental , community and infrastructure purposes:	Scope of this clause has been enlarged so that all types of land proposed to be dedicated to Council are considered against the criteria included in subclauses 4.2.1 – 4.2.17
CI 4.2.1	Its improvements and physical land dimensions comply with Council's design code and construction specifications. Alternative, developer funded, arrangements for the provision of improvements may be arranged if satisfactory to Council	That Council is satisfied (based on information provided by the applicant where required) that the land is suitable for its intended use under Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land.	Current clause cannot be implemented. The clause regarding a contamination assessment presently included at Clause 4.5 is moved here as it is a matter for consideration for all land to be dedicated to Council
CI 4.2.6	Where relevant, the improvements on the land comply with the Building Code of Australia and the Development Consent.	Where relevant, the improvements on the land comply with the Building Code of Australia, Council's Design and Construction Specifications , and the Development Consent.	The need for any improvements on the land to comply with Council design and construct specs has been added. This is appropriate as Council will own the improvements following dedication.
CI 4.2.15	n/a – this is a new sub clause. The existing clause 4.2.15 and subsequent subclauses to be renumbered.	Notwithstanding Clause 4.2.14 Council will be unlikely to accept dedications of land that are heavily burdened by caveats, easements and other constraints on title; (the following clauses will be numbered if this clause is agreed)	It is preferable that any land dedicated to Council has unencumbered title where possible.
CI 4.3	Environmental Land Council will only accept environmental land where the land has significant environmental value and a	Environmental Land Council will only accept environmental land where the land has significant environmental value and a long term funding	Refer explanation for Clause 4.5.1

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	<p>funding source is secured in perpetuity for its maintenance. Such funding sources include biodiversity banking, biodiversity certification and a monetary contribution through a voluntary planning agreement (VPA). In the case of a monetary contribution through a VPA the contribution shall be calculated as follows:</p> $C = 35 \times M_A$ <p>Where C is the contribution payable and M_A is the estimated average annual cost to maintain the land for environmental and hazard mitigation purposes. The estimated annual cost shall be determined on the basis that all works will be undertaken by private contractors.</p>	<p>source is secured for its maintenance. Such funding sources include biodiversity banking, biodiversity certification and a monetary contribution through a voluntary planning agreement (VPA). In the case of a monetary contribution through a VPA, the contribution shall be calculated to be a present value amount sufficient to provide at least thirty five (35) years of maintenance whereby the first five (5) years of maintenance are provided by the applicant (based on a maintenance plan approved by Council), and all subsequent years are undertaken by Council. In determining the amount of the contribution payment, the following assumptions will be applied:</p> <ul style="list-style-type: none"> ▪ The contribution payment will be invested at an interest rate equivalent to the prevailing RBA cash rate + 1%. ▪ The annual maintenance cost in year one of the calculation is the estimated average annual cost to maintain the land for environmental and hazard mitigation purposes. The estimated annual cost shall be determined by Council on the basis that all works will be undertaken by private contractors. ▪ The annual maintenance cost will be indexed for all subsequent years by the average annual "percentage change (from the previous financial year)" of the Sydney All Groups CPI (ABS Catalogue 6401.0, Table 2) for the preceding four financial years. 	

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Location	Previous Wording	New Wording (Changes shown in red text)	Reasoning
		<ul style="list-style-type: none"> The annual maintenance in years 1 to 5 will be provided by the applicant (in addition to the payment of the calculated contribution amount). The annual maintenance for year 6 and all subsequent years will be undertaken by Council and funded from the calculated amount until the funds are depleted. The amount invested in each year is deemed to be the contribution amount plus the accumulated interest earned in prior years less the accumulated annual maintenance costs from year 6 onwards. The contribution amount when invested at the beginning of year 1, will be sufficient to provide maintenance funding from year 6 and up to at least the end of year 35. 	
CI 4.3	Environmental Land (last pgh) The requirements of clause 4.2 do not apply to environmental land to be dedicated under this clause	This pgh deleted in amended version of Policy	Environmental Land proposed to be dedicated to Council should still be subject to the range of criteria included in Clause 4.2.1 – 4.2.17
CI 4.5	The existing Clause 4.5 has been shifted without change to clause 4.2.1 The wording proposed in Clause 4.5 is new.	4.5 Additional Requirements for Infrastructure Lands 4.5.1 Council will only accept the dedication of infrastructure land in the following circumstances: (a) <u>Drainage or Stormwater Management Land</u> In the case of land being dedicated for drainage or stormwater management purposes (ie: land required for the	This is the most significant amendment in the Policy and establishes that Council will only accept land to be dedicated for stormwater management purposes if it is accompanied by a maintenance contribution equivalent to 35 years worth of the annual maintenance cost. This includes the provision of the first 5 years maintenance by the developer and a monetary contribution of 30 years worth of annual maintenance indexed to CPI.

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		<p>management of the quantity and/or quality of stormwater), funding should be provided to Council for the long term maintenance of this land. This will occur in most cases by way of a monetary contribution provided through a voluntary planning agreement (VPA). In the case of a monetary contribution through a VPA, the contribution shall be calculated to be a present value amount sufficient to provide at least thirty five (35) years of maintenance whereby the first five (5) years of maintenance are provided by the applicant and all subsequent years are undertaken by Council. In determining the amount of the contribution payment, the following assumptions will be applied:</p> <ul style="list-style-type: none"> ▪ The contribution payment will be invested at an interest rate equivalent to the prevailing RBA cash rate + 1%. ▪ The annual maintenance cost in year one of the calculation is the value specified in Attachment 1 to Council's Dedication of Land Policy, being the "Indicative Costs for maintenance of Stormwater Basins". ▪ The annual maintenance cost will be indexed for all subsequent years by the average annual "percentage change (from the previous financial year)" of the Sydney All Groups CPI (ABS Catalogue 6401.0, Table 2) for the preceding four financial years. ▪ The annual maintenance in years 1 to 5 will be provided by the applicant (in addition to the payment 	

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		<p>of the calculated contribution amount).</p> <ul style="list-style-type: none"> ▪ The annual maintenance for year 6 and all subsequent years will be undertaken by Council and funded from the calculated amount until the funds are depleted. ▪ The amount invested in each year is deemed to be the contribution amount plus the accumulated interest earned in prior years less the accumulated annual maintenance costs from year 6 onwards. ▪ The contribution amount when invested at the beginning of year 1, will be sufficient to provide maintenance funding from year 6 and up to at least the end of year 35. <p>Payment of the contribution will be as advised in Clause 4.7.</p> <p>Council will also require the developer to carry out the maintenance of the structure and land to be dedicated for the first five (5) years, commencing from the day after the contribution amount is paid. In carrying out this maintenance the applicant will be required to comply with the reasonable directions of Council.</p> <p>Attachment 1 to the Policy provides an Indicative Cost Schedule that Council will use as its reference costs for determining the annual maintenance costs of OSD basins. These costs may vary depending upon site conditions the requirements of the structure to be maintained and other relevant matters. However, variations to this Cost Schedule will be at the sole discretion of</p>	

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		<p>Council. The cost schedule will be reviewed every year by Council and adjusted if necessary.</p> <p>Council's Planning Agreements Policy provides further advice about the requirements for Planning Agreements prepared to dedicate land for drainage and stormwater management purposes, and to provide the monetary contribution for the maintenance of lands dedicated for this purpose. Any planning agreement prepared for this purpose will need to address the requirements of this clause.</p>	
	n/a – new clause	4.5.2 Where Council accepts the dedication of infrastructure land, it will be classified as " <i>Operational Land</i> " under the Local Government Act. This will require a separate resolution from Council following dedication of the land	A classification of Operational land is the appropriate category of land being dedicated to Council for infrastructure purposes
Cl 4.6		<p>Funding for Maintenance of Land considered to be both Environmental Land and Infrastructure (Drainage or Stormwater Management) Land</p> <p>Where land is proposed to be dedicated to Council and the land fits within the categories of Environmental Land and Infrastructure (Drainage and Stormwater Management) Land, funding for maintenance in accordance with the formula included clauses 4.3 and 4.5.1(a) must be provided so that the land can be maintained for both of these purposes.</p>	

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Location	Previous Wording	New Wording (Changes shown in red text)	Reasoning
CI 4.7	<p>In Perpetuity Funding</p> <p>Where this policy requires in perpetuity funding, that funding shall be provided to Council prior to the dedication of the land. These funds will be held in trust by Council invested. The returns on the invested funds will be used solely for the purpose for which it was intended. If required, Council may enter into a voluntary planning agreement or other statutory agreement to ensure the funds are only used in this way.</p>	<p>Payment of Monetary Contribution</p> <p>Where this Policy requires the payment of a monetary contribution for maintenance purposes, the contribution will be payable prior to the release of the last subdivision certificate for the development or just prior to the transfer of the title of the land to Council, whichever occurs latest. These funds will be held in trust by Council invested. The returns on the invested funds will be used solely for the purpose for which it was intended. If required, Council may enter into a voluntary planning agreement or other statutory agreement to ensure the funds are only used in this way.</p> <p>Councils Planning Agreements Policy provides advice about Council requirements for the preparation of planning agreements.</p>	<p>The reference "in perpetuity" has been deleted and the timing of payment has been specified.</p> <p>Additional paragraph added to clarify that a Planning Agreement is the emans through which any maintenance contribution required under this Policy will be provided to Council and advising of Council's Planning Agreements Policy that establishes the requirements for Planning Agreements.</p>
CI 4.9	<p>Requirements for any Land to be dedicated to Council</p> <p>To ensure only suitable land is dedicated to Council it will not accept dedication of any land unless it is satisfied that the land is suitable for its intended use under Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land.</p>	Shifted to Clause 4.2.1	

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Location	Previous Wording	New Wording (Changes shown in red text)	Reasoning
5 – Responsibility and Accountability			
5.2	Planning	Growth and Strategic Planning	Name of relevant section in council changed to reflect its current title
6 – Related Policies		6.11	
CI 6.11		Planning Agreements Policy	Council's Planning Agreements Policy has been included as it is a relevant policy
11 - Implementation Statement			
11.1.2	A review of this policy every 3 years.	A review of this policy every 2 years .	
12 – Policy History			
12.3	Next Review Date - 1/07/2014	Next Review Date Include a date 2 years after last adoption	
Attachment 1	Not previously included	Attachment included at page 10 of the Draft Dedication of Land Policy	Provide a transparent basis for the maintenance cost to be included.

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1. POLICY OBJECTIVES

- 1.1 To detail the requirements of Council for land proposed to be dedicated for infrastructure, environmental or community purposes.
- 1.2 To ensure that only suitable land is dedicated to provide quality infrastructure, opportunities and services to the community.
- 1.3 To ensure Council is not burdened with high maintenance land or land with poor usability.
- 1.4 To ensure Council is not burdened with the costs of stabilising, remediating or otherwise rectifying land that carries risks to human or environmental health.
- 1.5 To ensure environmental conservation lands are only dedicated to Council if a funding source is available for long term maintenance.
- 1.6 To ensure that lands to be dedicated to Council for drainage and stormwater management purposes are provided with a source of funds for the maintenance of those lands
- 1.7 To achieve, in a balanced way, the objectives of the Wollondilly Community Strategic Plan.

2. BACKGROUND

- 2.1 Council owns land for a number of community and infrastructure purposes. From time to time developers dedicate land to Council either compulsorily or voluntarily.
- 2.2 Council has a responsibility to maintain these lands.
- 2.3 Development of sites containing environmental lands can result in a residual area of environmental land. Such land can, in theory, be dedicated to Council. If Council accepts such land it is burdened with its maintenance for environmental and hazard management purposes.
- 2.4 Similarly, land that is dedicated to Council for some infrastructure related purposes (eg for drainage or stormwater management) can also impose high maintenance costs on Council;
- 2.5 This policy provides a framework for managing the dedication of these types of land, so that Council is not burdened unreasonably by the maintenance of these lands.

3. ELIGIBILITY

- 3.1 All land within the Shire of Wollondilly except those in Clause 3.2
- 3.2 This Policy does not apply to lands proposed to be dedicated to Council under Section 94 of the Environmental Planning and Assessment Act (the Act). (Note that the

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Wollondilly Development Contributions Plan 2011, and future contributions plans) outline the matters that Council will consider when deciding whether or not to accept the dedication of land under Section 94 of the Act).

4. GUIDELINES

4.1 Types of Land

This policy groups land to be dedicated to Council into three (3) categories. These are:

4.1.1 Infrastructure Land

Infrastructure land includes land to be dedicated for roads, pedestrian pathways, **drainage and** stormwater management and treatment, car parking, emergency management, administration facilities, community services facilities, depots and other like purposes. This category may include operational land.

4.1.2 Community Land

Community land means land to be dedicated to Council for community halls, parks, active and passive recreation facilities and other like purposes.

4.1.3 Environmental Land

Environmental land means land that has been reserved for the purpose of conservation of biodiversity, scenic or indigenous heritage purposes.

It is possible for land to fit more than one category under this Clause 4.1. In such cases the land must be assessed under each category prior to being dedicated to Council.

4.2 Infrastructure and Community Land **to be replaced with Matters for Council Consideration**

To ensure only suitable land is dedicated to Council, the following matters will be considered in deciding whether or not to accept the dedication of land to Council for environmental, community and infrastructure purposes:

4.2.1 **That Council is satisfied (based on information provided by the applicant where required) that the land is suitable for its intended use under Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land.**

4.2.2 In the case of new work, satisfactory bonds have been posted for the defect liability period.

4.2.3 The land has an identified use and is fit for the intended purpose.

4.2.4 All construction and landscaping is designed and installed/constructed with a view to minimise maintenance.

4.2.5 The land will meet the infrastructure need for which it is proposed both in the short and long term.

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- 4.2.6 Where relevant, the improvements on the land comply with the Building Code of Australia, Council's Design and Construction Specifications, and the Development Consent.
- 4.2.7 All trees on the land have been assessed for hazard and found satisfactory or removed or suitably isolated from public access.
- 4.2.8 Adequate access is provided for vehicles and pedestrians where relevant.
- 4.2.9 The land has low risk from natural and other hazards.
- 4.2.10 The land has adequate connectivity with other similar land uses and with a population that will use it.
- 4.2.11 The scale of the land dedication is appropriate to the location and the relevant population that will use it.
- 4.2.12 The land meets needs in the broader context of the total development, locality and the Shire.
- 4.2.13 The land dedication is consistent with Council's Community Strategic Plan, Growth Management Strategy and other high level council strategies.
- 4.2.14 The land is realistically valued including, without limitation, the constraints imposed by easements and other restrictions on title.
- 4.2.15 **Notwithstanding Clause 4.2.14 Council will be unlikely to accept dedications of land that are heavily burdened by caveats, easements and other constraints on title;
(the following clauses will be numbered if this clause is agreed)**
- 4.2.15 The improvements on the land maximise its potential for a wide range of uses (excluding roads).
- 4.2.16 All improvements are completed prior to dedication to Council or suitably bonded prior to dedication.
- 4.2.17 All improvements are to be provided in accordance with Council's adopted standards or, in cases where no standards exist, at the standard determined by Council.

Above Standard Improvements

Council will not accept improvements that are above standard or that require higher maintenance than standard. This clause will not apply if in perpetuity funding for the additional maintenance costs is arranged with Council in accordance with Clause 4.5 of this policy.

Below Standard Improvements

Council will not accept improvements that are below standard if they result in the land becoming otherwise unsuitable under this policy.

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4.3 Environmental Land

Council will only accept environmental land where the land has significant environmental value and a long term funding source is secured for its maintenance. Such funding sources include biodiversity banking, biodiversity certification and a monetary contribution through a voluntary planning agreement (VPA). In the case of a monetary contribution through a VPA, the contribution shall be calculated to be a present value amount sufficient to provide at least thirty five (35) years of maintenance whereby the first five (5) years of maintenance are provided by the applicant (based on a maintenance plan approved by Council), and all subsequent years are undertaken by Council. In determining the amount of the contribution payment, the following assumptions will be applied:

- The contribution payment will be invested at an interest rate equivalent to the prevailing RBA cash rate + 1%.
- The annual maintenance cost in year one of the calculation is the estimated average annual cost to maintain the land for environmental and hazard mitigation purposes. The estimated annual cost shall be determined by Council on the basis that all works will be undertaken by private contractors.
- The annual maintenance cost will be indexed for all subsequent years by the average annual "percentage change (from the previous financial year)" of the Sydney All Groups CPI (ABS Catalogue 6401.0, Table 2) for the preceding four financial years.
- The annual maintenance in years 1 to 5 will be provided by the applicant (in addition to the payment of the calculated contribution amount).
- The annual maintenance for year 6 and all subsequent years will be undertaken by Council and funded from the calculated amount until the funds are depleted.
- The amount invested in each year is deemed to be the contribution amount plus the accumulated interest earned in prior years less the accumulated annual maintenance costs from year 6 onwards.
- The contribution amount when invested at the beginning of year 1, will be sufficient to provide maintenance funding from year 6 and up to at least the end of year 35.

4.4 Additional Requirements for Parks

To ensure only suitable land is dedicated to Council it will require, in addition to the requirements at Clause 4.2, that parks shall have the following minimum dimensions:

Area: 5000m²
Width and Length: 50m

This numerical control does not apply in cases where land is proposed to be dedicated as a park in a location that adjoins and is accessible to an existing park.

Council may consider acquiring smaller parks where they have particular strategic merit for recreation or other community uses.

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4.5 Additional Requirements for Infrastructure Lands

4.5.1 Council will only accept the dedication of infrastructure land in the following circumstances:

(a) Drainage or Stormwater Management Land

In the case of land being dedicated for drainage or stormwater management purposes (ie: land required for the management of the quantity and/or quality of stormwater), funding should be provided to Council for the long term maintenance of this land. This will occur in most cases by way of a monetary contribution provided through a voluntary planning agreement (VPA). In the case of a monetary contribution through a VPA, the contribution shall be calculated to be a present value amount sufficient to provide at least thirty five (35) years of maintenance whereby the first five (5) years of maintenance are provided by the applicant and all subsequent years are undertaken by Council. In determining the amount of the contribution payment, the following assumptions will be applied:

- The contribution payment will be invested at an interest rate equivalent to the prevailing RBA cash rate + 1%.
- The annual maintenance cost in year one of the calculation is the value specified in Attachment 1 to Council's Dedication of Land Policy, being the "*Indicative Costs for maintenance of Stormwater Basins*".
- The annual maintenance cost will be indexed for all subsequent years by the average annual "*percentage change (from the previous financial year)*" of the Sydney All Groups CPI (ABS Catalogue 6401.0, Table 2) for the preceding four financial years.
- The annual maintenance in years 1 to 5 will be provided by the applicant (in addition to the payment of the calculated contribution amount).
- The annual maintenance for year 6 and all subsequent years will be undertaken by Council and funded from the calculated amount until the funds are depleted.
- The amount invested in each year is deemed to be the contribution amount plus the accumulated interest earned in prior years less the accumulated annual maintenance costs from year 6 onwards.
- The contribution amount when invested at the beginning of year 1, will be sufficient to provide maintenance funding from year 6 and up to at least the end of year 35.

Payment of the contribution will be as advised in Clause 4.7.

Council will also require the developer to carry out the maintenance of the structure and land to be dedicated for the first five (5) years, commencing from the day after the contribution amount is paid. In carrying out this maintenance the applicant will be required to comply with the reasonable directions of Council.

Attachment 1 to the Policy provides an Indicative Cost Schedule that Council will use as its reference costs for determining the annual maintenance costs of OSD basins. These costs may vary depending upon site conditions the requirements of the structure to be maintained and other

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relevant matters. However, variations to this Cost Schedule will be at the sole discretion of Council. The cost schedule will be reviewed every year by Council and adjusted if necessary.

Council's Planning Agreements Policy provides further advice about the requirements for Planning Agreements prepared to dedicate land for drainage and stormwater management purposes, and to provide the monetary contribution for the maintenance of lands dedicated for this purpose. Any planning agreement prepared for this purpose will need to address the requirements of this clause.

4.5.2 Where Council accepts the dedication of infrastructure land, it will be classified as "Operational Land" under the Local Government Act. This will require a resolution from the Council.

4.6 Funding for Maintenance of Land considered to be both Environmental Land and Infrastructure (Drainage or Stormwater Management) Land

Where land is proposed to be dedicated to Council and the land fits within the categories of Environmental Land and Infrastructure (Drainage and Stormwater Management) Land, funding for maintenance in accordance with the formula included clauses 4.3 and 4.5.1(a) must be provided so that the land can be maintained for both of these purposes.

4.7 Payment of Monetary Contribution

Where this policy requires the payment of a monetary contribution for maintenance purposes, the contribution will be payable prior to the release of the last subdivision certificate for the development or prior to the transfer of the title of the land to Council, whichever occurs latest. These funds will be held in trust by Council invested. The returns on the invested funds will be used solely for the purpose for which it was intended. If required, Council may enter into a voluntary planning agreement or other statutory agreement to ensure the funds are only used in this way.

Council's Planning Agreements Policy provides advice about Council requirements for planning agreements.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Executive
- 5.2 Growth and Strategic Planning
- 5.3 Property
- 5.4 Environment
- 5.5 Infrastructure Planning
- 5.7 Works
- 5.8 The Property Assessment Panel

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6. RELATED POLICIES

- 6.1 Development Contributions Plan
- 6.2 Local Environmental Plan
- 6.3 Community Strategic Plan
- 6.4 Asset Management Plan
- 6.5 Environmental Zones Policy
- 6.6 Planning Proposals Policy (DRAFT)
- 6.7 Corporate Property Policy
- 6.8 Probity – Dealing With Council Owned Land Policy
- 6.9 Open Space Recreation and Community Facilities Strategy
- 6.10 Biodiversity Strategy
- 6.11 Planning Agreements Policy

7. RELATED PROCEDURES

- 7.1 Nil

8. RELATED LEGISLATION

- 8.1 Environmental Planning and Assessment Act, 1979
- 8.2 Environmental Planning and Assessment Regulation, 2000
- 8.3 Local Government Act, 1993
- 8.4 Local Government (General) Regulation, 2005
- 8.5 Roads Act, 1993
- 8.6 Road Rules, 2008
- 8.7 Native Vegetation Act, 2003
- 8.8 Native Vegetation Regulation, 2013
- 8.9 Threatened Species Conservation Act, 1995
- 8.10 Threatened Species Conservation (Biodiversity Banking) Regulation, 2008
- 8.11 Threatened Species Conservation Regulation, 2010

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9. ATTACHMENTS

9.1 Nil

10. RESOURCES

10.1 Nil

11. IMPLEMENTATION STATEMENT

11.1 To ensure this policy is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, staff and council representatives and will involve:

11.1.1 A review of each planning proposal prior to reporting to Council and public exhibition to ensure all actions required by this policy have been completed.

11.1.2 A review of this policy every 3 years.

12. POLICY HISTORY

12.1	Date First Adopted	1/07/2014
12.2	Most Recent Adoption	to be inserted
12.3	Next Review Date	Include a date 2 years after most recent adoption review
12.4	Responsible Officer	Manager Growth and Strategic Planning

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Attachment 1 – Indicative Maintenance Requirements for land being dedicated to Council as Infrastructure (Drainage and Stormwater Management) Land

Calculation of maintenance costs for land that is being dedicated to Council for Infrastructure (Drainage and Stormwater Management) purposes should generally include the matters included in Table 2 below. The table is not exhaustive and other matters may also need to be included in determining the maintenance cost, the depending upon the circumstances of the land proposed for dedication.

ATTACHMENT 1: Indicative Costs for maintenance of Stormwater Basins

Item	Details	Unit Cost	Recurrence	Annualised cost*
Council Inspection	Testing of bio-retention basins Check attachment of orifice plate to wall of pit and check attachment of screen to wall of pit Check screen for corrosion/damage Inspect DCP walls/headwall structure for cracks and spalling Inspect DCP sump (if present (for sediment/sludge) Inspect bioretention basins structures for sediment and debris accumulation, vegetation, weed growth, erosion, scour, excessive ponding, vandalism	\$440	2/year	\$880
Insurance	Council to assess and renew insurance policy annually	\$100	1/year	\$100
Repair of OSD Structures	Replace/repair corroded or damaged componentry (grates, screens concrete structures etc) as necessary	\$3,000	0.1/yr	\$300
Mowing and Debris/sediment removal	Mow basin, clear debris from headwall and screen, overflow weir, grates and outlet pipes. Clear sediment, debris, weeds and dead/dying vegetation. Replace plants as necessary	\$750	4/yr	\$3000
Fence Repair	Repair/replace damaged fence components as required	\$1500	0.1/yr	\$150
Filter media replacement	Replace rejuvenate filter media to 0.05 m for bioretention structures as per manufacturer's spec	\$3000	0.2/yr	\$600
GPT Cleanout		\$300	3/yr	\$900
TOTAL				\$5,930

*The costs included in the Annualised cost Column will be used as the basis for determining the Maintenance Contribution.
Costs will be reviewed annually by Council and this table will be adjusted if required.