

Public Consultation Draft

Environmental Planning and Assessment (Special Infrastructure Contribution – Illawarra (West Lake Illawarra)) Determination 2011

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 94EE of the *Environmental Planning and Assessment Act 1979*, make the following Determination.

Minister for Planning

Dated:

1 Name of Determination

This Determination is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Illawarra (West Lake Illawarra)) Determination 2011*.

2 Commencement

This Determination takes effect on [insert date].

3 Definitions

(1) In this Determination:

contribution rate – see clauses 7 and 8.

deferred payment arrangement – see clause 17.

developer means the person having the benefit of a development consent for the time being.

industrial land means:

- (a) land within any of the following land use zones specified in the Standard Instrument:

- (i) Zone B5 Business Development,
 - (ii) Zone B7 Business Park,
 - (iii) Zone IN1 General Industrial,
 - (iv) Zone IN2 Light Industrial,
 - (v) Zone IN3 Heavy Industrial, and
- (b) land within a land use zone that is equivalent to any such land use zone, and
- (c) land within any land use zone:
- (i) that adjoins industrial land described in paragraph (a) or (b), and
 - (ii) on which development for a purpose permitted on the adjoining industrial land is authorised to be carried out under a development consent that is granted pursuant to a provision of an environmental planning instrument that is in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument.

Note. See, for example, clause 5.3 (Development near zone boundaries) in the *Wollongong Local Environmental Plan (West Dapto) 2010*.

infrastructure has the same meaning as it has in Subdivision 4 of Division 6 of Part 4 of the Act.

relevant development means development for which a special infrastructure contribution must be made under this Determination.

residential land means:

- (a) land within any of the following land use zones specified in the Standard Instrument:
- (i) Zone R1 General Residential,
 - (ii) Zone R2 Low Density Residential,
 - (iii) Zone R3 Medium Density Residential,
 - (iv) Zone R4 High Density Residential,
 - (v) Zone R5 Large Lot Residential,
 - (vi) Zone RE2 Private Recreation,
 - (vii) Zone E4 Environmental Living, and
- (b) land within a land use zone that is equivalent to any such land use zone, and
- (c) land within any land use zone:

- (i) that adjoins residential land described in paragraph (a) or (b), and
- (ii) on which development for a purpose permitted on the adjoining residential land is authorised to be carried out under a development consent that is granted pursuant to a provision of an environmental planning instrument that is in the same terms, or substantially the same terms, as clause 5.3 (Development near zone boundaries) of the Standard Instrument.

special infrastructure contribution means a development contribution that is determined under section 94EE of the Act.

special infrastructure contribution works-in-kind agreement – see clause 25.

Standard Instrument means the standard instrument for a principal local environmental plan prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

strata certificate means a strata certificate within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

strata lot means a lot within the meaning of section 5 (1) of the *Strata Schemes (Freehold Development) Act 1973* or section 4 (1) of the *Strata Schemes (Leasehold Development) Act 1986*.

Sydney CPI number means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

the Act means the *Environmental Planning and Assessment Act 1979*.

the map marked “Illawarra (West Lake Illawarra) – Special Contributions Area” means the map marked “Illawarra (West Lake Illawarra) – Special Contributions Area” referred to in Schedule 5A to the Act.

Illawarra (West Lake Illawarra) Special Contributions Area means the land described in Schedule 5A to the Act as the land shown edged heavy black on the map marked “Illawarra (West Lake Illawarra) – Special Contributions Area”.

- (2) A word or expression used in this Determination has the same meaning as it has in the Act, unless otherwise defined.

Note. See section 4B of the *Environmental Planning and Assessment Act 1979* for the meaning of ***subdivision of land***. Subdivision of land includes community title subdivision under the *Community Land Development Act 1989*.

- (3) The following words or expressions have the same meanings as they have in the Standard Instrument:

- (a) emergency services facility,
 - (b) health services facility,
 - (c) neighbourhood shop,
 - (d) passenger transport facility,
 - (e) public utility undertaking,
 - (f) recreation area,
 - (g) shop top housing.
- (4) A reference in this Determination to the Minister in relation to a deferred payment arrangement or special infrastructure contribution works-in-kind agreement includes a reference to the Director-General, or other officer of the Department of Planning, acting for and on behalf of the Crown in right of the State of New South Wales.
- (5) Notes in this Determination are provided for guidance only.

4 Development for which SIC must be made

- (1) Subject to this clause, a special infrastructure contribution must be made for development on the following land within the Illawarra (West Lake Illawarra) Special Contributions Area:
- (a) residential land within the Illawarra (West Lake Illawarra) Special Contributions Area,
 - (b) industrial land within the Illawarra (West Lake Illawarra) Special Contributions Area.

Note. A special infrastructure contribution may be imposed only as a condition of development consent. Accordingly, such a contribution can be required only in respect of development that may be carried out with development consent. A special infrastructure contribution cannot be imposed as a condition of consent if a planning agreement made in accordance with section 93F of the *Environmental Planning and Assessment Act 1979* excludes the application of section 94EF.

- (2) A special infrastructure contribution is not required to be made for development for the purpose of any of the following:
- (a) government school (within the meaning of the *Education Act 1990*),
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) golf course (but not including any associated building such as a club house),
 - (f) neighbourhood shop,
 - (g) passenger transport facility,
 - (h) public utility undertaking,
 - (i) bus depot, whether or not owned or operated by a public authority,
 - (j) recreation area,

- (k) shop top housing,
- (l) roads, or other public amenities or public services, in connection with which development contributions have been imposed under section 94 or section 94A of the Act or may be imposed in accordance with a contributions plan approved under section 94EA of the Act,
- (m) roads or other infrastructure in connection with which special infrastructure contributions have been, or may be, imposed in accordance with this Determination.

Note. See Appendix 1 to this Determination for the items of infrastructure in connection with which a special infrastructure contribution is required to be made under this Determination.

- (3) If a special infrastructure contribution has been required to be made for development on land in accordance with this Determination, a further special infrastructure contribution is not required to be made for other development on that land.
- (4) A special infrastructure contribution is not required to be made for any of the following kinds of development:
 - (a) subdivision for the purpose only of creating a lot (no more than 0.1 hectare in area) to contain an existing lawful habitable dwelling,
 - (b) subdivision for the purpose only of rectifying an encroachment on any existing lot,
 - (c) development on land in relation to which the Director-General has certified to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure.
- (5) A special infrastructure contribution is not required to be made for development that satisfies both of the following:
 - (a) the development comprises the subdivision of land (other than a strata subdivision or a subdivision that is only for the purpose of a creating a lot to contain an existing habitable dwelling),
 - (b) the Director-General has, having regard to relevant planning controls, certified to the consent authority that each lot resulting from the subdivision is a lot that will be further subdivided in accordance with a further development consent (or approval under Part 3A of the Act) for the purpose of the orderly development of the land for urban purposes in the future.

Note. A lot referred to in paragraph (b) is commonly referred to as a super lot.

- (6) A special infrastructure contribution is not required to be made in respect of complying development for which a complying development certificate is issued.

- (7) To avoid doubt, a special infrastructure contribution is required to be made:
- (a) for any part of the land to which a development consent relates within the Illawarra (West Lake Illawarra) Special Contributions Area, even if the same development consent authorises development on land outside the Special Contributions Area, and
 - (b) for any part of the land on which relevant development is authorised to be carried out by a development consent, even if the same development consent also authorises development that is not relevant development (because, for example, of land use zoning) on another part of the land.
- (8) An exclusion from the requirement to make a special infrastructure contribution provided by a subclause of this clause is not limited by the terms of an exclusion provided by any other subclause of this clause.

Note. See section 75R (4) of the *Environmental Planning and Assessment Act 1979* for the application of this Determination to a project under Part 3A of that Act.

5 Nature of contribution

- (1) The special infrastructure contribution that must be made for relevant development is:
- (a) a monetary contribution, or
 - (b) a contribution of a kind specified in a special infrastructure contribution works-in-kind agreement that is in force in relation to the relevant development (being the carrying out of works for the provision of infrastructure or the dedication or other provision of land).
- (2) The special infrastructure contribution may comprise part of the amount of the monetary contribution otherwise payable and the balance as a contribution provided by a special infrastructure contribution works-in-kind agreement.

6 Amount of monetary contribution

The monetary contribution that is payable as a special infrastructure contribution for a relevant development is the amount calculated by applying the contribution rate for the relevant development, as at the date of payment, to the net developable area for the development, that is, the monetary contribution is an amount calculated as follows:

$$\text{\$C}_p = \text{NDA} \times \text{\$C}_R$$

where:

\\$C_p is the monetary contribution payable
NDA is the net developable area, in hectares, for the relevant development (determined in accordance with clauses 9 to 13)

$\$C_R$ is the amount in dollars of the contribution rate, applicable at the date of payment, for the relevant development (as provided by clauses 7 and 8).

7 Contribution rates

- (1) The contribution rate that is to be used in the calculation of the monetary contribution for a relevant development is the rate specified in the table to subclause (2) for development of the class to which the relevant development belongs.
- (2) Each amount specified in the table to this subclause applies to the determination of the relevant contribution rate at any time before 1 July 2011.

Table

Class of development	Contribution rate
1. Development on residential land that is within the Illawarra (West Lake Illawarra) Special Contributions Area (as referred to in clause 4 (1) (a))	\$73,219 per hectare of net developable area
2. Development on industrial land within the Illawarra (West Lake Illawarra) Special Contributions Area (as referred to in clause 4 (1) (b))	\$29,180 per hectare of net developable area

- (3) The amounts that apply to the determination of the contribution rates at any time during the 12 month period commencing 1 July 2011, and during each subsequent 12 month period, are the amounts as adjusted in accordance with clause 8.

8 Annual adjustment of amounts used in contribution rates

- (1) For the purposes of this clause, each of the amounts of \$73,219 and \$29,180 specified in the table to clause 7 (2) is an adjustable amount.
- (2) On 1 July 2011 and on 1 July in each subsequent year, each adjustable amount is to be adjusted by multiplying the amount by the following fraction:

latest Sydney CPI number / 170.5

where:

latest Sydney CPI number is the Sydney CPI number for the March quarter in the year in which the adjustment is made (the March quarter being the quarter commencing on and including 1 January and ending on and including 31 March in that same year).

Note. The figure **170.5** is the Sydney CPI number for the March quarter in 2010.

- (3) If an adjustable amount, as adjusted in accordance with subclause (2), is not a multiple of \$1, the amount is to be rounded to the nearest \$1.

9 Net developable area

- (1) The net developable area for a relevant development is the area of land, in hectares, to which the development consent for the development relates, subject to this Determination.
- (2) The net developable area for a relevant development includes the area of any land that the development consent authorises, or requires, to be used as a road, or reserved or dedicated as a public road (other than a road referred to in subclause (3)). The net developable area does not, however, include the area of any existing road in respect of which the development consent authorises, or requires, road work (such as road widening) to be carried out.
- (3) To avoid doubt, the net developable area does not include the area of any land that the development consent authorises, or requires, to be reserved, dedicated or otherwise set aside as, or for the purpose of, any of the following:
 - (a) government school (within the meaning of the *Education Act 1990*),
 - (b) TAFE establishment,
 - (c) emergency services facility,
 - (d) health services facility owned or operated by a public authority,
 - (e) golf course,
 - (f) passenger transport facility,
 - (g) public reserve or drainage reserve (within the meaning of the *Local Government Act 1993*),
 - (h) public transport corridor (other than a road corridor),
 - (i) public utility undertaking,
 - (j) bus depot, whether or not owned or operated by a public authority,
 - (k) recreation area,
 - (l) roads, or other public amenities or public services, in connection with which development contributions have been imposed under section 94 or section 94A of the Act or may be imposed in accordance with a contributions plan approved under section 94EA of the Act,
 - (m) roads or other infrastructure in connection with which special infrastructure contributions have been, or may be, imposed in accordance with this Determination.
- (4) The following areas of land are also not to be included in the calculation of the net developable area for the relevant development:

- (a) any part of the land to which the development consent for the relevant development relates that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if that part of the land is unsuitable for the relevant development by virtue of it being at or below that level,
- (b) any part of the land to which the development consent for the relevant development relates that is identified as public open space in a development control plan or in a contributions plan approved under section 94EA of the Act.

10 Net developable area where large lot created to contain an existing habitable dwelling

The net developable area for a relevant development comprising subdivision of land for the purpose only of creating a lot of more than 0.1 hectare in area to contain an existing lawful habitable dwelling is taken to be reduced by 0.1 hectare.

Note. See also clause 4 (4) (a) which provides that a SIC is not required to be made for a subdivision of land the only purpose of which is to create a lot that is no more than 0.1 hectare in area so as to contain an existing habitable dwelling.

11 Net developable area not to include any residue lot or super lot

The net developable area for a relevant development comprising subdivision of land does not include any lot that the Director-General has, having regard to relevant planning controls, certified to the consent authority is a lot that will be further subdivided in accordance with a further development consent (or approval under Part 3A of the Act) for the purpose of the orderly development of the land for urban purposes in the future.

12 Reduction of net developable area where land within heritage curtilage or Environmental Living Zone

- (1) This clause applies to a relevant development if any lot of land to which the development consent for the development relates includes (wholly or partly):
 - (a) land that is within the curtilage of a building listed on the State Heritage Register, or
 - (b) land that is within Zone E4 Environmental Living.
- (2) For the purpose of calculating the net developable area for a relevant development to which this clause applies, any such lot that is more than 0.1 hectare in area is taken to be 0.1 hectare.
- (3) In this clause, *curtilage*, in relation to a building, means the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register.

13 Final determination of net developable area by Director-General

The Director-General may make any determination required to be made for the purpose of calculating the net developable area for a relevant development in accordance with this Determination and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements made by a registered surveyor of the land concerned.

14 When a monetary contribution for development other than subdivision is to be paid

If a special infrastructure contribution is made as a monetary contribution, the monetary contribution must be paid for relevant development (other than subdivision):

- (a) before a construction certificate is issued in relation to a building to which the development consent for the relevant development relates, and
- (b) if a construction certificate is not required for the relevant development, before any work that the development consent authorises to be carried out is physically commenced on the land.

15 When a monetary contribution for subdivision (other than strata subdivision) is to be paid

- (1) If a special infrastructure contribution for a subdivision (other than strata subdivision) is made as a monetary contribution, the monetary contribution must be paid:
 - (a) before a subdivision certificate is issued for the subdivision, or
 - (b) in accordance with clause 18 if a deferred payment arrangement is in force in relation to the monetary contribution at the time the subdivision certificate is issued for the subdivision.
- (2) For the purpose of subclause (1) (a), if a subdivision certificate is sought for a plan of subdivision that would, on registration, create only some of the lots authorised to be created by the relevant development consent, the monetary contribution for the subdivision authorised by the development consent may be paid progressively, with an amount being paid before the issue of each subdivision certificate for a plan of subdivision authorised by that consent (a *subdivision certificate for a staged subdivision*).
- (3) The amount that must be paid before the issue of each subdivision certificate for a staged subdivision is to be calculated:
 - (a) as if the subdivision of land to which the subdivision certificate relates comprised the entire subdivision authorised by the development consent, and
 - (b) on the basis that the net developable area does not include the area of any “transitional lot” in the plan of subdivision for which the subdivision certificate is sought.

A “*transitional lot*” is a lot in the plan of subdivision for which the subdivision certificate is sought that may be further subdivided in accordance with the relevant development consent.

16 When a monetary contribution for strata subdivision is to be paid

If a special infrastructure contribution for a strata subdivision is made as a monetary contribution, the monetary contribution must be paid:

- (a) before a strata certificate for the strata subdivision is issued, or
- (b) in accordance with clause 18 if a deferred payment arrangement is in force in relation to the monetary contribution at the time the strata certificate is issued.

17 Deferred payment arrangement for subdivision

- (1) For the purposes of this Determination, a deferred payment arrangement in relation to the payment of a monetary contribution for a subdivision is an arrangement described in this clause.
- (2) A deferred payment arrangement is made, in relation to a subdivision, if a deed of charge is executed by the owner of the land and the Minister, and that deed:
 - (a) grants the Minister a charge over the land to which the development consent for the subdivision relates, and
 - (b) is generally in accordance with the Memorandum of Deed of Charge Standard Terms and Conditions, executed by the Minister and registered by the Registrar-General, and
 - (c) is registered on the title to the land.
- (3) A deferred payment arrangement is also made, in relation to a subdivision, if a bank guarantee is provided to the Minister and:
 - (a) the Minister has agreed in writing to the terms of the bank guarantee, and
 - (b) the bank guarantee:
 - (i) secures the payment of the monetary contribution (including the payment of any contribution amount referred to in clause 19, 20 or 21), and
 - (ii) is for 100% of the monetary contribution (or any contribution amount referred to in clause 19, 20 or 21) at the time it becomes due, and
 - (iii) the bank guarantee provides that the Minister may call upon the bank guarantee (in full or in part) in the event of a failure to pay the monetary contribution, or any contribution amount, at the time it becomes due.

18 When a monetary contribution must be paid if deferred payment arrangement in place

If a deferred payment arrangement in relation to a monetary contribution for subdivision is in force, a separate amount is payable in respect of each lot or strata lot in the subdivision (the *contribution amount* calculated in accordance with clause 19, 20 or 21) and must be paid:

- (a) before the end of 3 years from the date of issue of the subdivision certificate or strata certificate that relates to that lot or strata lot, or
- (b) at least 21 working days before the lot or strata lot is first transferred (following its creation),

whichever is the earlier.

19 Amount payable in respect of each lot in subdivision – deferred payment arrangement

- (1) The contribution amount that is payable in respect of a lot in a subdivision (other than a subdivision to which clause 20 or 21 applies) for which a subdivision certificate has been issued is to be calculated, as at the date of payment, in accordance with the following formula:

$$\$CA_P = L / LT \times NDA \times \$C_R$$

where:

- $\$CA_P$ is the contribution amount payable for the lot
- L is the area (in hectares) of the lot
- LT is the total area (in hectares) of the lots to which the subdivision certificate relates
- NDA is the net developable area for the subdivision
- $\$C_R$ is the amount in dollars of the contribution rate, applicable at the date of payment, for the subdivision (as provided by clauses 7 and 8)

- (2) If the subdivision certificate referred to in subclause (1) is a subdivision certificate for a staged subdivision (as referred to in clause 15 (2)), the net developable area for the subdivision is to be calculated:
 - (a) as if the subdivision of land to which the subdivision certificate relates comprised the entire subdivision authorised by the relevant development consent, and
 - (b) on the basis that the net developable area does not include the area of any “transitional lot” in the plan of subdivision to which the subdivision certificate relates (in which case a reference to a lot in subclause (1) does not include a reference to a transitional lot).

A “*transitional lot*” is a lot in the plan of subdivision to which the subdivision certificate relates that may be further subdivided in accordance with the relevant development consent.

- (3) A separate contribution amount is not payable in respect of a lot comprising a road, even though the area of the road is included in the calculation of the net developable area for the subdivision and is taken into account in calculating the contribution amounts that must be paid in respect of other lots in the subdivision. (Accordingly, a reference to a lot in subclause (1) does not include a reference to a lot comprising a road.)

20 Amount payable in respect of each strata lot in a strata subdivision – deferred payment arrangement

The contribution amount that is payable in respect of a strata lot in a strata subdivision for which a strata certificate has been issued is to be calculated, as at the date of payment, in accordance with the following formula:

$$\text{\$CA}_P = U / \text{UT} \times \text{NDA} \times \text{\$C}_R$$

where:

- \\$CA_P** is the contribution amount payable for the strata lot
U is the unit entitlements of the strata lot
UT is the total (aggregate) unit entitlements of all strata lots in the strata subdivision
NDA is the net developable area for the strata subdivision
\\$C_R is the amount in dollars of the contribution rate, applicable at the date of payment, for the strata subdivision (as provided by clauses 7 and 8)

21 Amount payable in respect of a lot in a community title subdivision – deferred payment arrangement

- (1) This clause applies to a lot in a subdivision of land procured by the registration of any of the following plans of subdivision within the meaning of the *Community Land Development Act 1989* (and in respect of which there is a deferred payment arrangement in force):
- (a) community plan,
 - (b) community plan of subdivision,
 - (c) neighbourhood plan,
 - (d) neighbourhood plan of subdivision,
 - (e) precinct plan,
 - (f) precinct plan of subdivision.
- (2) The contribution amount that is payable in respect of a lot in a subdivision of land to which this clause applies (and for which a subdivision certificate has been

issued) is to be calculated, as at the date of payment, in accordance with the following formula:

$$\text{\$CA}_P = U / \text{UT} \times \text{NDA} \times \text{\$C}_R$$

where:

\\$CA_P is the contribution amount payable for the lot

U is the unit entitlements of the lot

UT is the total (aggregate) unit entitlements of the lots in the subdivision

NDA is the net developable area for the subdivision

\\$C_R is the amount in dollars of the contribution rate, applicable at the date of payment, for the subdivision (as provided by clauses 7 and 8)

- (3) A separate contribution amount is not payable:
- (a) in respect of a lot shown in a community plan as community property, a lot shown in a neighbourhood plan as neighbourhood property and a lot shown in a precinct plan as precinct property, or
 - (b) in respect of a lot comprising a road,

even though the area of such a lot is included in the calculation of the net developable area for the subdivision and is taken into account in calculating the contribution amounts that must be paid in respect of the other lots in the subdivision. (Accordingly, a reference to a lot in subclause (2) does not include a reference to lot referred to in paragraph (a) or (b)).

- (4) If the subdivision certificate referred to in subclause (2) is a subdivision certificate for a staged subdivision (as referred to in clause 15 (2)), the net developable area for the subdivision is to be calculated:
- (a) as if the subdivision of land to which the subdivision certificate relates comprised the entire subdivision authorised by the relevant development consent, and
 - (b) on the basis that the net developable area does not include the area of any “transitional lot” in the plan of subdivision to which the subdivision certificate relates (in which case a reference to a lot in subclause (2) does not include a reference to a transitional lot).

A “*transitional lot*” is a lot in the plan of subdivision to which the subdivision certificate relates that may be further subdivided in accordance with the relevant development consent.

22 Payment of monetary contribution where subdivision and other development on same land

If a single development consent authorises both the subdivision of land and the carrying out of subdivision work on that land, the monetary contribution is required to be paid before the issue of the subdivision or strata certificate (or in accordance with clause 18), rather than before the issue of a construction certificate in relation to the work (even if that occurs first).

23 Payment of monetary contribution where different kinds of development on different parts of land

- (1) This clause applies if:
 - (a) a single development consent authorises different kinds of relevant development on different parts of the land to which the development consent relates, and
 - (b) this Determination would otherwise require a monetary contribution to be paid at different times in respect of each kind of development.
- (2) The special infrastructure contribution for relevant development in any such case (if made as a monetary contribution) is to be paid:
 - (a) at the earliest time by which payment would be required to be made for any of the different kinds of development, or
 - (b) as provided by subclause (3).
- (3) Separate monetary contributions may be made for each kind of relevant development as if, instead of a single development consent, a separate development consent had been granted for each kind of development. Accordingly, the monetary contributions are payable at the various times provided by this Determination in relation to the different kinds of development concerned.

24 Reduction in contribution if made by 1 July 2011

If a special infrastructure contribution is made as a monetary contribution that is paid before 1 July 2011, then the amount that would otherwise be payable under this Determination is reduced by one third.

25 Special infrastructure contribution works-in-kind agreement

- (1) For the purposes of this Determination, a special infrastructure contribution works-in-kind agreement is an agreement that meets the requirements set out in this clause.
- (2) A special infrastructure contribution works-in-kind agreement is an agreement between the Minister and the developer for the carrying out of works to provide an item of infrastructure specified in Appendix 1 to this Determination, or for the dedication or other provision of land for the purpose of any such infrastructure, in

lieu (in part or in whole) of the payment of a monetary contribution for the development concerned.

- (3) A special infrastructure contribution works-in-kind agreement, in relation to the carrying out of works, is to:
- (a) specify or acknowledge the monetary contribution that would otherwise be payable for the relevant development, and
 - (b) describe the works that are to be carried out by or on behalf of the developer to contribute to the provision of a specified item or items of infrastructure, and
 - (c) specify the attributable cost of the item or items of infrastructure and provide for the adjustment of that cost due to inflation or deflation, and
 - (d) provide that the maximum amount of the liability to make the special infrastructure contribution that may be discharged by the carrying out of the works is not to exceed the attributable cost of the item or items of the infrastructure, and
 - (e) specify times by which specified stages of the works involved must be completed (“key project milestones”), and
 - (f) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution.
- (4) A special infrastructure contribution works-in-kind agreement, in relation to the dedication or other provision of land, is to:
- (a) specify or acknowledge the monetary contribution that would otherwise be payable for the relevant development, and
 - (b) specify the time by which the land is to be dedicated or otherwise provided, and
 - (c) specify the manner in which the value of that land is to be calculated, and
 - (d) provide for the nature or form of security to be provided by the developer for a failure to meet obligations with respect to the special infrastructure contribution.
- (5) In this clause, *attributable cost*, in relation to an item of infrastructure, means the amount specified in Appendix 1 to this Determination for that item.

26 Part of special infrastructure contribution is for matters referred to in section 94ED (1) (d) of Act

For the purpose of section 94EE (3A) of the Act:

- (a) no part of the special infrastructure contribution required to be made by this Determination is for the provision of infrastructure by a council, and
- (b) no part of the special infrastructure contribution required to be made by this Determination is for matters specified in section 94ED (1) (d) of the Act.

Note. The matters specified in section 94ED (1) (d) of the *Environmental Planning and Assessment Act 1979* are the carrying out of any research or investigation, preparing any report, study or instrument, and doing any other matter or thing in connection with the exercise of any statutory function under the Act, by the Minister, the corporation, the Director-General or the Department.

27 Reasons for the level and nature of the special infrastructure contribution

For the purpose of section 94EE (5) of the Act, the reasons for the level and nature of the special infrastructure contribution required to be made by this Determination are as follows:

- (a) to assist in providing adequate funding for regional public infrastructure (described in Appendix 1 to this Determination) in the Illawarra (West Lake Illawarra) Special Contributions Area,
 - (b) to ensure that future development bears a share of the cost of the provision of such infrastructure,
 - (c) to provide for the adjustment of the special infrastructure contribution to reflect changes in economic conditions between the time of imposing the contribution and the time at which the contribution is made,
 - (d) to provide flexibility as to the manner in which the special infrastructure contribution may be made,
 - (e) to ensure that the special infrastructure contribution reflects a reasonable apportionment between the demand for infrastructure generated by existing development and the demand for that infrastructure that is likely to be generated by new development for which the contribution must be paid.
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APPENDIX 1

WEST LAKE ILLAWARRA S I C CALCULATION SUMMARY

JANUARY 2011

DEVELOPMENT PROJECTIONS

RESIDENTIAL			Dwelling / Lot Forecast
RELEASE AREA	Development Stage		
WEST DAPTO	Stage 1	Darkes Road / Wongawilli	3,500
	Stage 2	West Dapto / Bong Bong Road	3,400
	Stage 3	Cleveland	3,200
	Stage 4	Avondale	4,500
	Stage 5	Marshall Mount	2,500
TALLAWARRA			700
CALDERWOOD			7,700
TOTAL Dwelling / Lot production Forecast			25,500
Average Residential Dwelling Density (Lots / Ha.)			11.8
Equivalent Residential N D Ha			2,161
EMPLOYMENT LAND	Developable Area (Ha.)		175
TOTAL DEVELOPABLE AREA (N D Ha)			2,336

INFRASTRUCTURE

ROADS	ATTRIBUTABLE COST \$M
Albion Park Interchange	25,440
Yallah Interchange	20,365
Tallawarra on-ramp	12,924
Tallawarra off-ramp	6,494
Emerson Road off-ramp	1,480
Emerson Road on-ramp upgrade	0,876
Fowlers Road on-ramp	3,421
Fowlers Road off-road	3,824
Kanahooka Road off-ramp	3,241
Kanahooka Road on-ramp	3,602
Illawarra Highway upgrade	20,352
Master Road Flyover	0,000
F6 : additional land at various locations	0,000
Northcliffe Drive Extension (Regional)	62,239
Princes Highway Mullet Creek Crossing (Regional)	22,406
Princes Highway upgrades x 2 sections (Regional)	14,419
TOTAL ROADS	201,083
EDUCATION	UNITS
West Dapto Primary Schools	8
West Dapto Secondary Schools	2
Calderwood (DLL) Primary	1
Calderwood (DLL) Primary SNU	1
Calderwood (DLL) Secondary	1
Calderwood remainder Primary	1
TOTAL EDUCATION	26,971
HEALTH	0.000
	0.000
EMERGENCY SERVICES	0.000
	0.000
OPEN SPACE	0.000
	0.000
Total Asset Costs (100% Costs)	(Including Allowance for Finance Costs) 228,054

CONTRIBUTION RATES

RATE PER N D Ha (100%)	\$97,625
RESIDENTIAL S I C RATE PER NET DEVELOPABLE Ha (75 %)	\$73,219
EMPLOYMENT S I C RATE PER NET DEVELOPABLE Ha	\$29,180

NOTE

The figures shown in this tables represent the amount allocated within the Special Infrastructure Contribution, which may differ from the actual cost of the item.

The figures will be updated every four years.

The Government's Commitments in relation to infrastructure are to be found in the State Infrastructure Strategy and Budget Paper 4.