

# City of Sydney Affordable Housing in Green Square

PRACTICE NOTES – May 2008



*city of villages*

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## 1. FACTS

- All development within Green Square, other than development expressly exempted by clause 27Q of *South Sydney Local Environmental Plan 1998* (SS LEP 1998), is required to provide affordable housing. The requirement for provision of affordable housing will be a condition of development consent.
- The amount of affordable housing to be provided is 3% of the total floor area of a residential development and 1% of the total floor area of a non-residential development.
- Council will encourage the provision of affordable housing within each proposed development, particularly on large sites. However, the applicant may choose to pay the equivalent monetary contribution, or opt for a combination of on-site provision and monetary contribution. A minimum size of 50 square metres applies to each unit of affordable housing.
- Where units are provided on site, the applicant must transfer the title of the affordable housing unit(s) to a registered non-profit community housing organisation. (Refer to Section 4.1 and Schedule 1 of the *Green Square Affordable Housing Development Control Plan* (GSAH DCP) for 'recommended' community housing providers.)
- Non-profit community housing organisations can register with the Office of Community Housing to become an affordable housing provider. Further information about the registration process and about how the units are to be managed is contained in Section 4 of the GSAH DCP.
- Affordable housing contributions are calculated on an average unit size of 100 square metres.
- The amount of affordable housing floorspace calculation is based on "total floor area" rather than the "gross floor area" used in calculating the floor space ratio of a development. The main difference is that the minimum balcony area (8 square metres) is included in the calculation of total affordable housing floor area (cl.27M SS LEP 1998).
- The current rates (for the period of 1 March 2008 to 28 February 2009) for providing monetary contributions in lieu of providing units on site are:
  - \$117.03 per square metre of total residential floor area
  - \$39.00 per square metre of total non-residential floor area.
- The contribution rates are indexed annually on March 1 on the basis of the Established House Price Index for Sydney for the preceding year (December to December - using arithmetic averages of the quarterly index numbers) as published by the Australian Bureau of Statistics (Cat. No. 6416.0).
- The contributions received in relation to affordable housing are totally separate from those that relate to Section 94 Contributions.

- Before a construction certificate is granted, an applicant must show evidence of an agreement with the 'recommended' community housing provider confirming transfer of title or where a monetary contribution is involved, an applicant must show evidence (receipt) of payment of a monetary contribution or lodgement of a bank guarantee.
- Before an occupation certificate is granted, an applicant must show evidence that title of unit(s) has been transferred to the 'recommended' community housing provider or, where a monetary contribution is involved, evidence of final payment.

## **2. DEVELOPMENT APPLICATION PROCEDURE**

Where an affordable housing contribution is required as part of a development, the following procedure applies:

### **Step 1**

The applicant has preliminary discussions with Council and is advised of affordable housing provisions in Green Square.

### **Step 2**

The applicant lodges a Development Application (DA) which indicates the means of affordable housing provision (on-site or monetary contribution or a combination of both means of provision). The provision of affordable housing should be specified on plans and/or in the Statement of Environmental Effects.

### **Step 3**

Council's planners check the figures supplied by the applicant to assess the amount of total floor area required for affordable housing or calculate the amount of contribution based upon the formula under Section 2.5 of GSAH DCP.

### **Step 4**

If it is proposed to provide units on site, the 'recommended' community housing provider is consulted by the Council planner to determine the suitability of units.

### **Step 5**

Council determines the DA and includes affordable housing conditions of consent if approval is granted.

### **Step 6**

The affordable housing contribution required is entered into Council's Affordable Housing Register.

### **Step 7**

The Affordable Housing Register is updated if the DA is subsequently amended.

### 3. AFFORDABLE HOUSING FOR SUBSEQUENT DEVELOPMENTS

Provision for affordable housing is not required on subsequent development on land if:

- a) the total floor area is the same, or because of redevelopment of the site, will replace an equivalent area that was the subject of a former DA granted consent after commencement of the Green Square Affordable Housing Scheme under SS LEP 1998, being 28 May 1999, and
- b) the same percentage of the total floor area has already been provided for use for affordable housing as required by SS LEP 1998, or a contribution has already been paid under the affordable housing provisions.

### 4. CALCULATIONS EXAMPLE

For a 3 Stage development:

**Stage 1** – commercial / warehouse

**Stage 2** – residential (136 units)

**Stage 3** – retail

Total Floorspace:

**Stage 1** – 3,260 sqm

**Stage 2** – 13,087 sqm

**Stage 3** – 10,500 sqm

#### Calculation of Contribution Amount

##### Stage 1 - Commercial Development

##### On-Site Provision:

= 1% of 3,260sqm or 32.6sqm in kind – therefore, on-site provision is not practical given nature of development, because the resulting unit would be less than 50 square metres.

or

##### Contribution in Lieu of On-Site Provision:

= \$39.00/sqm of total floor area (3,260sqm)  
 = 39 x 3,260  
 = \$127,140

**Stage 2 - Residential Development**On-Site Provision:

- = 3% of 13,087sqm
- = 392sqm or 4 units in kind @ an average of 100sqm each  
(or for example, 8 one bedroom units @ 50sqm each)

**Note:**

The extra amount of area included to provide complete dwellings is necessary and is not recoverable. Each affordable housing dwelling is required to have a total floor area of not less than 50sqm.

**or**

Contribution in Lieu of On-Site Provision:

- = \$117.03/sqm of total floor area (13,087sqm)
- = 117.03 x 13,087
- = \$1,531,571.61

**Stage 3 – Retail Development**On-Site Provision:

- = 1% of 10,500sqm or 105sqm in kind
- = 1 unit (may be incorporated as part of Stage 2 development depending on timing of construction)

**or**

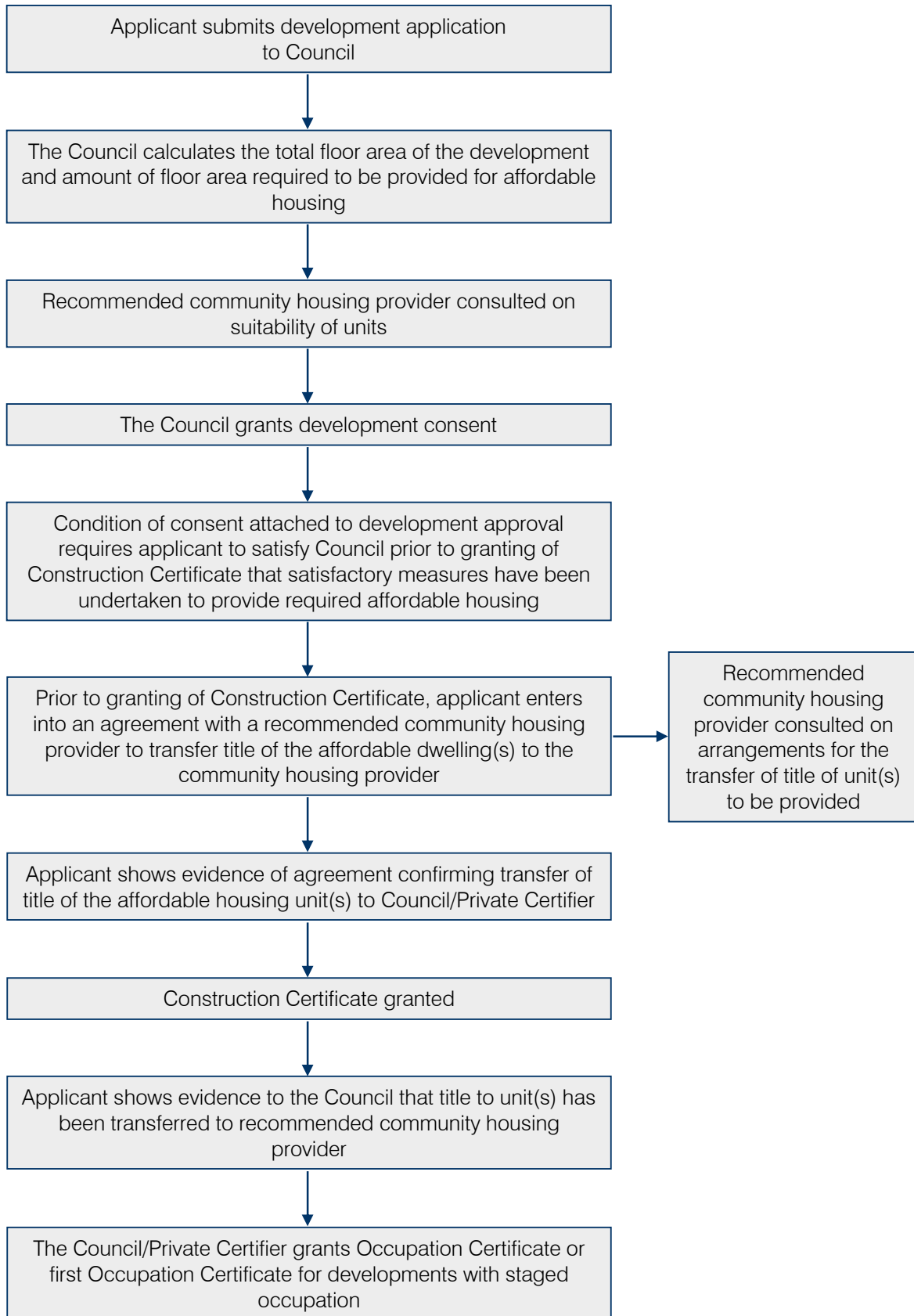
Contribution in Lieu of On-Site Provision:

- = \$39.00/sqm of total floor area (10,500sqm)
- = 39 x 10,500
- = \$409,500

**Note:**

Affordable housing must be provided at each stage of the development. The applicant may choose to provide in lieu monetary contribution for all stages or provide both monetary contribution and housing contribution at the different stages.

Procedures for provision of affordable housing units on site



## **5. PROCEDURES FOR PAYMENT OF AFFORDABLE HOUSING CONTRIBUTION**

### **Calculation of contribution**

Where an applicant elects to pay an in lieu monetary contribution to meet the affordable housing requirements of SS LEP 1998, Council will calculate the amount to be paid based on the total floor area of the development in accordance with the provisions of the LEP. This will be specified as a condition of consent.

### **Time and method of payment**

Generally payment is required prior to the granting of a construction certificate. However, an option for delayed payment is provided by lodging a bank guarantee at this stage and making final payment prior to the granting of an occupation certificate.

### **Lodging a bank guarantee**

If submitting a bank guarantee, it must be in the form set out in Clause 3.4 of the GSAH DCP. A form – FORM A – setting out the required contribution amount must accompany the bank guarantee. The City of Sydney's City Plan Development Unit will provide this form.

Bank guarantees (in the required format – see Attachment A to these practice notes) accompanied by FORM A are to be lodged (in person) at:

*NSW Department of Planning  
23-33 Bridge Street, Sydney*

Visitors are directed to the Information Centre on the ground floor. It is strongly advised that applicants call the Information Centre on (02) 9228 6111 to arrange a time for payment.

If details in the bank guarantee are incorrect the processing time may be longer.

The Department of Planning will check the bank guarantee against required terms and the amount calculated and endorsed by Council as required in the development consent. The amount will be indexed if required. [Note: The contribution rate is indexed annually on March 1 on the basis of the Established House Price Index for Sydney for the preceding year as published by the Australian Bureau of Statistics (Cat No. 6416.0)]

A receipt voucher will then be issued to the applicant. The applicant will need to present this to Council/Private Certifier to enable the construction certificate to be released. The bank guarantee will be discharged when a payment for the affordable housing contribution has been received by the Department of Planning by returning the document to the Bank with a letter advising that the undertaking is no longer required.

## **Making an affordable housing payment**

When making a payment of the complete amount to enable release of the construction certificate, the applicant must obtain a completed FORM B from the City of Sydney Council's City Plan Development Unit.

FORM B sets out details of the contribution and must be issued by Council **before** it is submitted, with payment, to the Department of Planning. The Council will check the amount of the contribution against the development consent and index the amount, if required. [Note: The contribution rate is indexed annually on March 1 on the basis of the Established House Price Index for Sydney for the preceding year as published by the Australian Bureau of Statistics (Cat No. 6416.0)]

If the applicant wishes to discharge a previously lodged bank guarantee to obtain an occupation certificate, he/she must obtain a completed FORM C from the City of Sydney Council's City Plan Development Unit.

Payments (accompanied by authorised FORM B or C) are to be made (in person) at:

*NSW Department of Planning  
23-33 Bridge Street, Sydney*

Visitors are directed to the Information Centre on the ground floor. It is strongly advised that applicants call the Information Centre on (02) 9228 6111 to arrange a time for payment.

If appropriately authorised, the payment will be processed and a stamped receipt voucher returned to the applicant. Copies of the receipt will be retained by the Department of Planning.

## **Release of construction certificate or occupation certificate**

The applicant will be required to show the original stamped receipt voucher (FORM A or FORM B) from the Department of Planning accepting the bank guarantee or the payment to Council/Private Certifier to enable release of a construction certificate. If being privately certified, a copy of the receipt should be submitted by the certifier to City of Sydney Council's City Plan Development Unit for its records.

If a bank guarantee has been lodged prior to receipt of a construction certificate, a stamped receipt voucher (FORM C) for payment of contribution must be submitted to Council/Private Certifier prior to release of an occupation certificate. If being privately certified, a copy of the receipt should be submitted by the certifier to Council for its records.

A flow chart explaining the process for payment is provided at Attachment B.
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## **Administration of funds**

The funds collected will be held in a *Green Square Affordable Housing Fund* by the Department of Planning and applied for the specific purpose of procuring affordable housing in Green Square in accordance with SS LEP 1998 and GSAH DCP.

Funds will be released to the 'recommended community housing provider', which is City West Housing Company (or, in the future, other community housing organisations accredited by the Office of Community Housing), in accordance with an approved business plan for the purpose of providing affordable housing in Green Square.

Reports on the progress of the affordable housing program in Green Square will be prepared annually by the Department of Planning and the Office of Community Housing.

### **Enquiries about the affordable housing program**

Any questions about affordable housing contributions, management of funds and provision of affordable housing can be directed to:

#### *In the first instance*

Jane Grose, Specialist Planner  
City Plan Development Unit, City of Sydney  
Ph: (02) 9265 9346  
Email: [jgrose@cityofsydney.nsw.gov.au](mailto:jgrose@cityofsydney.nsw.gov.au)

Samantha Bird, Planner  
City Plan Development Unit, City of Sydney  
Ph: (02) 9265 9209  
Email: [sbird@cityofsydney.nsw.gov.au](mailto:sbird@cityofsydney.nsw.gov.au)

#### *Or, after consulting with Council*

The Housing Policy Team  
via the Information Centre,  
NSW Department of Planning  
ph: (02) 9228 6111

The City West Housing Company may be contacted on (02) 8584 7500.

# ATTACHMENT A

## – SAMPLE OF BANK GUARANTEE

(NAME OF BANK) A C N .....

### BANK GUARANTEE

Guarantee No.

Favouree  
(the Principal)

**To: Department of Planning**

Business name  
Or trading Name

**For: (Applicant/Company Name)**

(the Customer)

**(Name of Bank)** asks the Principal to accept this Undertaking in connection with a contract or agreement between the Principal and the Customer for

Description of  
Contract/agreement

Security deposit in respect of an Affordable Housing Contribution for the development known as **(address of development and DA number)**

In consideration of the Principal accepting this Undertaking, the Bank undertakes unconditionally to pay the Principal on written demand from time to time any sum or sums to an aggregate amount.

Amount

**(Amount)** indexed annually on March 1 on the basis of the Established House Price Index for Sydney for the preceding year (December to December – using arithmetic averages of the quarterly index numbers) as published by the Australian Bureau of Statistics (Cat No. 6416.0).

The Bank will pay this amount or any part of it to the Principal on demand without reference to the Customer and even if the Customer has given the Bank notice not to pay the money and without regard to the performance or non-performance of the Customer or Principal under the terms of the contract or agreement.

Any alterations to the terms of the contract or agreement or any extensions of time or any other forbearance by the Principal or Customer will not impair or discharge the Bank's liability under the undertaking.

This undertaking remains in force until one of the following events occur:

- The Principal notifies the Bank in writing that the Undertaking is no longer required.
- The Bank has paid the said indexed aggregate amount or balance outstanding to the Principal.

Notwithstanding anything stated in this Undertaking, the Bank has the right to terminate it at any time by paying the Principal the indexed aggregate amount or the balance outstanding, or any lesser amount that the Principal may require.

**(Dated and signed)**

For and on behalf **(Name of Bank)**.

On expiry or when no longer required this document must be returned for cancellation to:

The Manager

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

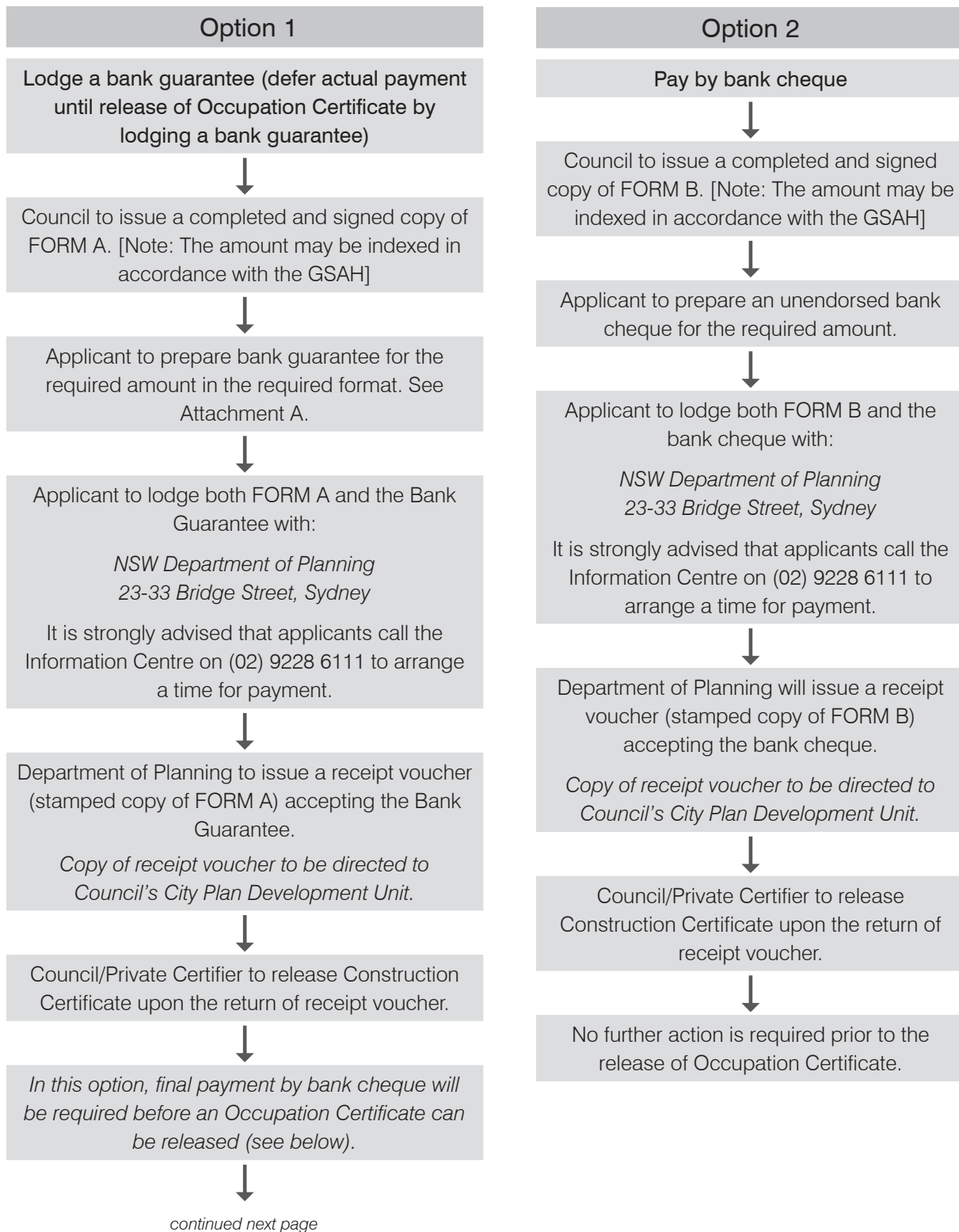
Bank Address: \_\_\_\_\_

\_\_\_\_\_

## ATTACHMENT B

### – MAKING OF AN AFFORDABLE HOUSING CONTRIBUTION

A condition of consent will require payment prior to release of Construction Certificate. Two payment options are available.



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Applicant to contact Council to obtain a copy of FORM C. Council may need to index the amount required to be paid. Council will provide a form setting out the final amount required to be paid (FORM C). Applicant to prepare an unendorsed bank cheque for the amount given in FORM C



Applicant to lodge unendorsed bank cheque for the final amount with:

*NSW Department of Planning  
23-33 Bridge Street, Sydney*

It is strongly advised that applicants call the Information Centre on (02) 9228 6111 to arrange a time for payment.

Department of Planning will issue applicant with a receipt voucher (stamped copy of FORM C).



Release of Occupation Certificate upon return of receipt voucher (stamped copy of FORM C) to Council.

*Copy of receipt voucher to be directed to  
Council's City Plan Development Unit.*