



**SECTION 94**

**ADMINISTRATION LEVY**

**CONTRIBUTIONS PLAN**

**March 2005**

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## **ABBREVIATIONS LIST**

CP	–	Contributions Plan
DA	–	Development Application
DCP	–	Development Control Plan
EP & A Act	–	Environmental Planning & Assessment Act 1979
LGA	–	Local Government Area
No.	–	Number
S.94	–	Section 94 (of the EP&A Act)
[1]	–	Bibliography reference number

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**REVISION HISTORY**

Version	Adopted	Commenced	Repeal	Notes
1	11/11/2002	11/02/2003		
1.1	06/12/2004	08/12/2004		Rate reduced
1.1	07/03/2005	16/03/2005		Amended to incorporate new policy on deferral of payment of contributions.

**CERTIFICATION**

This Contribution Plan, the **Hastings S94 Administration Levy Contributions Plan** was adopted by Hastings Council on the 11/11/2002 and the Plan and commenced on the 11/02/2003

General Manager

# **PART A**

## **EXECUTIVE SUMMARY**

The administration of Section 94 is a complex and expensive task. There are significant legislative requirements and legal precedents governing plan preparation, management, monitoring and implementation. The contribution plans themselves require constant maintenance, including the detailed monitoring of development, financial management including calculation of contributions rates and expenditure priorities, indexation, reacting to legal precedent and formal review.

Council employs a number of staff who work within the Section which manages both S94 and S64 contributions. The focus of their work is on the administration, planning, designing and monitoring of works to be funded from developer contributions. Many other staff spend time on implementation of works and on the administration of developer contributions although these are not accounted for in this plan. In addition, consultant studies are often commissioned in order to determine the extent, design and costings of developer funded works. These may require revision on a regular basis.

Council considers that the costs involved with administering the developer contributions system are an integral and essential component of the efficient and effective provision of public services and amenities within the Hastings LGA. Council therefore considers it reasonable that the expenses directly related to the above mentioned positions be funded from developer contributions.

The calculation of contributions is determined from the cost of administration as a percentage of the total annual developer contributions received under the provisions of all contributions plans and development servicing plans in operation within the Hastings LGA as explained in Part B of this plan. Council considers that the recovery of this oncost to manage developer contributions to be reasonable.

This plan details an administration levy of 2.2% to be paid on all S94 developer contributions. Contributions will be subject to quarterly CPI increases in line with other S94 contribution plans. This plan will be monitored annually and reviewed in three (3) years.

**END OF PART A**

## **PART B**

# **ADMINISTRATION AND ACCOUNTING**

### **Policy Statements**

- The Name of this Contributions Plan
- The Purpose of this Contributions Plan
- To What Area does this Contributions Plan Apply?
- Review and Indexing of this Contributions Plan
- The Relationship to Other Plans and Policies

### **How does this Contributions Plan Operate?**

### **What Formula is Used to Determine the Contribution?**

### **Accounting Matters**

- When are Contributions Payable?
- Are there any Exemptions to Contribution Payments?
- Deferment

## **Policy Statements**

### **The Name of this Contributions Plan**

This Contributions Plan (CP) may be referred to as the Hastings S94 Administration Levy Contributions Plan.

### **The Purpose of this Contributions Plan**

The primary purpose of this Contribution Plan is to enable Council to levy Section 94 developer contributions for the provision of administration functions required to ensure the efficient and effective provision of public services and amenities within the Hastings LGA.

The plan has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*. This legislation enables Council to attach conditions to consents for development that require the payment of contributions for public amenities and services which are needed as a consequence of that development.

Other purposes of this plan are to:

- offer the public and those involved in development certainty as to current contribution levels and Council's intentions regarding the nature, location and timing of the provision of public services and amenities;
- provide a comprehensive strategy for the assessment, collection, expenditure, accounting and review of development contributions, and to ensure that these contributions are fair and reasonable;
- provide public services and amenities for new development in a timely fashion, to a level and location determined to be appropriate for residents' needs;
- demonstrate that the existing community is not burdened by providing public services and amenities required as a result of development;
- ensure an equitable sharing of costs for services and amenities of developments that benefit from these services and amenities; and
- ensure that Council is both publicly and financially accountable in its assessment and administration of the contributions plans in operation within the Hastings LGA.

The principles on which this plan is based are as follows:

1. The levy is based on user pays principle which is an existing practice within Council:

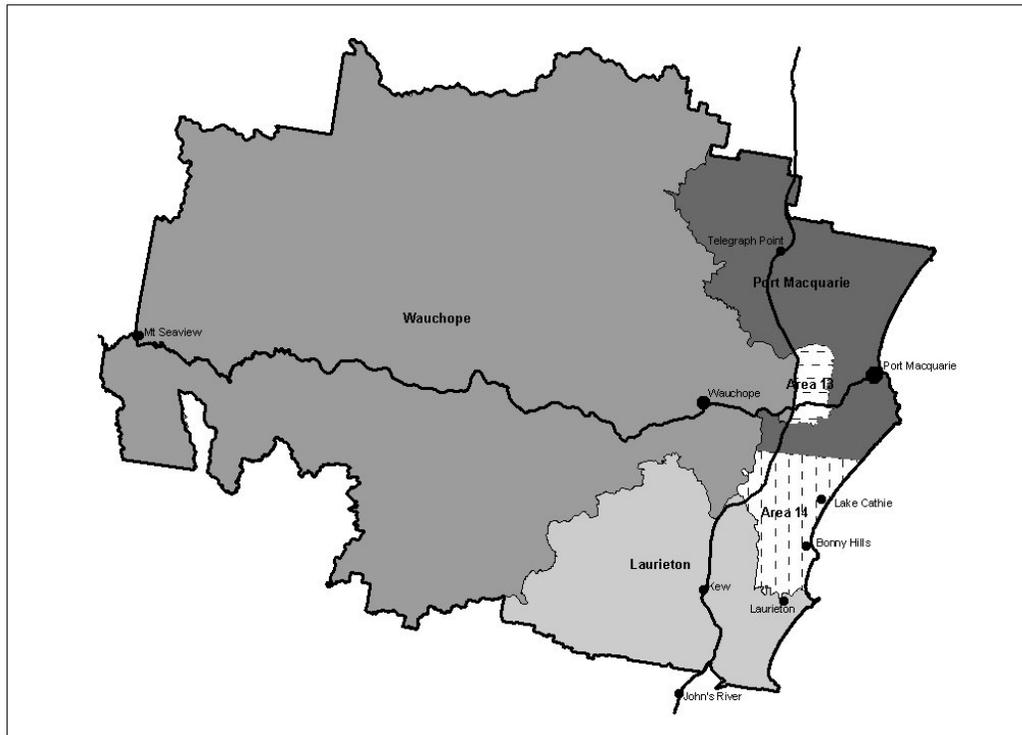
\* the business rate offsets the costs of tourism management and economic development in the area

- \* planning and building fees offset the costs of D&E staff.
2. The plan embodies procedural fairness in Council's S94 practices in that:
    - \* indirect costs are not attributed to the plan
    - \* charge is based on percentage of contributions due, rather than fixed fee method.
  3. This plan applies a levy of 2.2% on s94 contributions to fund Council's Section 94 Operations.
  4. The plan provides certainty for the developer community and Council:
    - \* it calculates the anticipated S94 contributions based on projected population growth.
    - \* the plan will be monitored annually
    - \* the plan will be formally reviewed within three (3) years.

## To What Area does this Contributions Plan Apply?

The Hastings Administration Contributions Plan applies to all land within the Hastings LGA as represented in Figure A.

**Figure A - The Hastings Local Government Area**



## Review and Indexing of this Contributions Plan

The assumptions upon which this plan is based reflect development levels and the cost of administering S94. It is therefore essential that the plan is reviewed on a regular basis to ensure that the provisions are effective, the needs of new development are being met, and the amounts of the contributions and the manner in which they are spent are actually providing efficient and effective administration of S94.

Consequently, Council's intention is to review the plan within 3 years of commencement of this version and to monitor the plan on an annual basis. As part of this review process, Council may seek to examine the following aspects of the plan:

- Rate of development.
- The relationship between contribution levels and current administration costs.
- The actual cost incurred by Council in providing S94 administration.
- Changes in legislation and legal precedent, which effect the management, content and/or implementation of the plan.

In the event that this process identifies development or financial trends which significantly depart from the assumptions upon which this plan is based, Council may review the plan in accordance with the requirements of *the Environmental Planning & Assessment Act 1979*, and the *Environmental Planning & Assessment Regulation 2000*.

Non-review amendments/updates will require an alteration to the Contribution Plan's version number and listing in the revision history table.

## **The Relationship to Other Plans and Policies**

This Contributions Plan applies to all S94 contributions plans in operation within the Hastings LGA, and supersedes all previous plans and policies relating to development contributions for administration.

The following Council policies and planning documents are related to this CP:

- Hastings LEP (2001);
- Hastings Urban Growth Strategy (2001);
- Hastings Council Development Contribution Assessment Policy;
- Hastings Council Works in Kind Policy.

## **How Does this Contributions Plan Operate?**

This plan applies to all development that creates the potential for an increase in demand for the public amenities and services identified in the S94 contributions plans in operation within the Hastings LGA, and requires the submission of a development application to Council.

## **What Formula Is Used to Determine the Contribution?**

The contribution rate is calculated by determining the cost of administration as a percentage of the total annual development contributions received under provisions of all contributions plans and development servicing plans in operation within the Hastings LGA, in accordance with the following formula:

$$\begin{aligned} \text{Contribution Rate (\%)} &= \frac{A \times \text{attributable \%}}{TC} \\ &= \frac{\$367,143 \times 45\%}{\$7,621,425} \\ &= 2.2\% \end{aligned}$$

Where: A = Cost of administration.

	=	\$165,214 (Refer Part C Apportionment)
TC	=	Estimated annual S94 development contributions
AC	=	For S94 administration 45%

TC (total contributions) is derived as follows:

Estimated annual growth in ET (Lots) x Weighted average contribution

$$\begin{aligned} \text{TC} &= 675 \times \$11291 \\ &= \$7,621,425 \end{aligned}$$

A is derived from the total annual costs of administration averaged over the ensuing three years, with 45% being apportioned to S94 administration.

Under this approach, the administration contribution is disbursed equitably over all contributions plans, and is considered reasonable for the amount of work required to administer each plan.

## **Accounting Matters**

### **When Are Contributions Payable?**

Council will accept S94 contributions in the following manner:

Where a DA is required	Prior to the release of the construction certificate, or as specified in the development consent
Subdivision	Prior to the subdivision certificate being issued or as specified in the development consent
Strata Development	Prior to the release of the construction certificate where required. If no construction certificate required, prior to subdivision certificate being issued, or as specified in the development consent

### **Are there any Exemptions to Contribution Payments?**

There are to be no exemptions for contribution payment under this Contribution Plan or via any Council Policy.

### **Deferment**

Council will allow the deferral of the payment of Development Contributions involving the construction of a building subject to:

- i) Lodgement of an irrevocable guarantee for the amount of the contributions plus an additional 12 month interest amount calculated at the average rate of Council's investments performance over the past 12 months plus 1%.
- ii) The maximum period for which the guarantee will be accepted is the sooner of 12 months or the issue of an occupation certificate for the development.
- iii) Guarantees will only be accepted from an institution approved by the Manager Corporate and Financial Planning.
- iv) If at the end of the period for the lodgment of the guarantee, the outstanding contributions plus the additional amount referred to in 'i' have not been paid, Council will call in the guarantee without further reference to the applicant.
- v) A prorata reduction in the amount referred to in 'i' will be allowed for payment of the outstanding contributions within 12 months or the calling in of the guarantee within 12 months.

The guarantee is to provide for Council to unconditionally call in the guarantee for the full amount at any time.

**END OF PART B**

# **PART C**

## **Nexus**

### **Nexus**

Council has a number of legislative and administration functions that are necessary to support S94 contribution plans, and a commitment to ensure the efficient implementation and ongoing review of these plans. These functions include:

- the initial planning studies to establish the requirements of the incoming population, and the provision of necessary facilities;
- developing, maintaining and documenting contributions plans, policies and procedures which produce the desired outcomes for the provision of facilities in terms of standard, appropriateness, timing and cost;
- regular and efficient reviews of Section 94 contribution rates;
- overseeing the financial management of Section 94 contributions plans, including contribution rates and expenditure priorities for services and amenities to be provided by Section 94;
- managing and monitoring works in kind and material public benefit proposals accepted by Council;
- close liaison with and coordination of other departments of Council in relation to the preparation and implementation of Council's Section 94 contributions plans and policies;
- monitoring levels of development, land acquisitions, land values and capital works in relations to the preparation and implementation of Council's Section 94 contributions plans and policies;
- reacting to legal precedent;
- preparation of legal briefs and advice;
- investigation and discussion with providers of public facilities and amenities;
- provision of demographic information;
- statutory requirements of advertising and review of submissions;
- formulation and supervision of relevant consultant studies which will be funded by the imposition of Section 94 contributions;
- to ensure that detailed studies, estimates and surveys are prepared by Council in advance of the execution of works;
- monitoring of the Contribution Plans to ensure that contribution levels reflect current land and construction costs, the level of provision reflects current planning and engineering practice and likely population trends and that work schedules are amended if development levels and income received differ from

current expectations. This process has particular regard for existing development trends and anticipated revenue;

- incorporation of scheduled items in Council's Capital Works Program and annual budgetary process; and
- preparation of Annual Statements.

Council has employed a Manager of Developer Contributions, a Developer Contributions Officer and Trainee Graduate whose sole roles are to ensure that these functions are carried out in an efficient and effective manner, and a Finance Officer who spends a significant amount of time on the financial management of S94 and S64. These staff are accountable to the Director of Corporate & Community Services, 15% of whose time is costed into this plan. In the event of staff vacancies, it is common practice to hire consultants to undertake the work required. The cost of managing the S94 contributions system is apportioned as being 45% of these officers salaries and oncosts (total \$347,143p.a.).

Council has commissioned computer software specifically for the accounting and monitoring of S94 contributions at an initial cost of \$50,000 and then \$20,000 per annum. The annual maintenance costs have also been included in the calculations.

These combined costs of salaries and computer software equate to \$367,143 per annum.

The total amount attributable to S94 contributions is 45% of the total, equating to \$165,214 per annum.

## **Apportionment**

There are significant costs associated with the provision of these S94 functions, which are an integral and essential component of the efficient and timely provision of services and amenities required as a consequence of development. Council therefore considers it reasonable that the expenses directly related to the above positions and the computer software be funded proportionately from S94 contributions and from S64 contributions which are detailed in a separate S64 development servicing plan.

It is emphasised that many other employees of Council spend time directly or indirectly on the administration of S94 for which no contribution is sought. Salary and software costs only are included in the contribution calculations which specifically do not include any allowances for vehicles, telephones, office rental or other costs generally associated. An apportionment of 45% of administration costs has been made to S94 based upon the quantum of work require in administering and managing these funds.