


BlacktownCityCouncil

**SECTION 94 CONTRIBUTIONS PLAN - NO. 12
-Local Drainage Charlotte Road Rooty Hill-**

In force as of 26th September 2001

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1 Introduction

1.1 Purpose of the Plan

This Contributions Plan (C.P.) outlines Council's policy regarding the application of Section 94 (S.94) of the Environmental Planning and Assessment Act, 1979 to the provision of local drainage in Charlotte Road, Rooty Hill.

This C.P. has been prepared in accordance with the Environmental Planning and Assessment Act, 1979 (the Act) and the Environmental Planning and Assessment Regulation, (the regulation) 1980.

The initial Contributions Plan was approved by Council on 13th October, 1999 and came into force on the 27th October, 1999.

This Plan was reviewed in June 2001. The revised Plan came into force on the 26th September, 2001.

1.2 Principles of Section 94

S.94 permits Councils to require persons developing land to pay monetary contributions and/or dedicate land in order to help fund the increased demand for public amenities and public services (amenities and services) generated by the carrying out of their developments. The Land & Environment Court has determined that S.94 is the sole method that Councils can use to require a contribution from a person developing land. The three general principles in applying S.94 contributions are:

- A contribution must be for, or relate to, a planning purpose;
- A contribution must fairly and reasonably relate to the subject development; and
- The contribution must be such that a reasonable planning authority, duly appreciating its statutory duties, could have properly imposed.

Council may either:

- Require a contribution (or dedication of land) to fund amenities and services to be carried out in the future; or

- Require a contribution to fund amenities and services which have already been constructed.

The latter category is referred to as **retrospective funding**.

One of the fundamental responsibilities of any Council in imposing S.94 contributions is to ensure that the contributions levied are **reasonable**. That is, the works and facilities to be provided must be as a direct consequence of the development on which the contributions are levied. In keeping with this responsibility, S.94 contributions levied on development as a result of this Plan are limited to providing local drainage to the minimum level necessary to sustain an acceptable form of urban development.

1.3 Aims and Objectives

The aims and objectives of this Plan are to:

- Ensure that an appropriate level of provision of local drainage occurs consistent with that which would have applied had the lots been granted development approval.
- Ensure that the Section 94 contributions levied on development are reasonable.
- Ensure that the method of levying Section 94 contributions is practical.
- Employ a user pays policy regarding the funding of local drainage so that the existing residents of the City are not subsidising new urban development.
- Make clear Council's intentions regarding the type, location and timing of provision of local drainage.

1.4 Development to which the Plan Applies

This Plan applies to all developments occurring within relevant parts of lots 14,15 & 16 Sec 2 of DP 8981, that require the submission of a development application to Council including the intensification of use of a site involving expansion of the area occupied by a development.

1.5 Relationship to Other Plans

Other planning controls apply to the areas subject to this Plan. These include:

- Blacktown Local Environmental Plan 1988;
- Blacktown Development Control Plan 1992; and
- Contributions Plan No. 1 - 1980's Release Areas S.94 Contributions Plans
- Contributions Plan No. 10 - Tree Planting on Nature Strips

1.6 Monitoring and Review of this Plan

This C.P. will be subject to regular review by Council. The purpose of any review is to ensure that:

- Contribution levels reflect the actual cost of provision of the local drainage including the repayment of interest.

Any changes to the C.P. must be prepared in accordance with the Act and the Regulation and placed on public exhibition for a period of 28 days. The nature of any changes proposed and the reasons for such will be clearly outlined as part of the public participation process.

Council welcomes the comments of interested parties on this C.P. at any time.

1.7 Timing of Provision of Items

The local drainage was constructed in September 1999.

1.8 Financial Information

A separate annual statement is prepared by Council following the end of each financial year. This accounting record contains details of total contributions received, total contributions expended and total interest earned for each C.P. and is available for inspection free of charge from Council's Finance & Corporate Strategy Directorate – Corporate Finance.

1.9 Enquiries regarding this Contributions Plan

Enquiries in relation to this or any other Contributions Plan can be made either by phoning Council's Information Centre on 9839 6000 between 8.30 am and 4.30 pm Monday to Friday or by visiting the, Information Centre on the Ground Floor of the Civic Centre in Flushcombe Road, Blacktown, between 8.30 am to 4.30 pm Monday to Friday. A copy of the Contributions Register that Council is required to maintain is also available for inspection free of charge at this counter.

2 Provision of Local Drainage

2.1 Nexus

A nexus can be drawn between the increased development anticipated on the land subject to the C.P. and the need to alleviate the problem with the discharge of storm water.

Council has alleviated the localised ponding of storm water fronting lots 14,15 & 16 Section 2, DP 8981 by forward funding the construction of local drainage.

The purpose of this C.P. is to recover the construction cost for the local drainage fronting lots 14,15 & 16, Section 2, DP 8981 at the time of development.

It should be noted that if the subject lands had been developed prior to the adoption of the C.P, the respective lands would have been requested to provide the local drainage works as a condition of development approval.

Each development=s fair share of contribution towards the total cost of the local drainage is calculated having regard for the existing topography of the land and proposed DCP road pattern. Thus all 3 lots will be required to pay their fair share of the cost of providing the drainage works.

3 Determination of Contribution Rates

3.1 Contribution Formula

The following formula is used to calculate the contribution rate for road drainage. The contribution relates to the works required for local drainage construction of Charlotte Road Rooty Hill.

$$\text{CONTRIBUTION RATE (\$/m}^2\text{)} = (C / A) + B$$

WHERE:

C = The actual cost to Council to date of undertaking works indexed to current day values using the Consumer Price Index (CPI).

A = The total drainage catchment area of the subject properties.

B = Administrative component. This is 2% of the total cost of providing the works.

3.2 Explanation of the Administrative Component

The administration of S.94 is an expensive task. Council employs a number of staff who work on planning, designing and constructing those works to be funded from S.94 contributions. In addition consultant studies are often commissioned in order to determine design and costings of S.94 funded works. These may require revision on a regular basis.

Council considers that the costs involved with administering S.94 are an integral and essential component of the efficient provision of works. Therefore, some of the costs of staff and studies should be recouped from S.94 contributions.

"B" in the contribution formula is the administrative component. It represents 2% of the total cost of providing the works. Council considers that this nominal on-cost to recover part of the costs involved in administering the C.P. is reasonable.

3.3 Indexation

In the formula, previous capital expenditure (C1) is indexed to current day values using the Consumer Price Index - Sydney - Housing (CPI). This index is published by the Australian Bureau of Statistics on a quarterly basis.

The reason for indexing past expenditure is that every developer pays for a small proportion of the cost of providing each individual item identified in the C.P. This means that if any items are constructed prior to all contributions being collected, then "borrowing" from another Council source will occur. If retrospective contributions are not indexed, this "borrowing" will have occurred without any interest having been paid. This will result in a shortfall of funds when the money is paid back. What indexing effectively does is to make up the lost interest on the funds which have been borrowed.

The CPI is one of the indices recommended for use by the Department of Urban Affairs & Planning.

3.4 Schedule of Contribution Rates

Contribution rates have been calculated using the formula in Section 3.1 above and components are shown in Appendix "C".

These rates are subject to review and indexation. This procedure is outlined in Section 3.3 above.

4 Payment of Contributions

4.1 Methods of Payment

There are 3 possible methods of payment of S.94 Contributions - monetary contribution, dedication of land and works-in-kind agreements.

Monetary Contribution

This is the usual method of payment. When a development consent is issued that involves the payment of a S.94 contribution, it contains a condition outlining the amount payable in monetary terms subject to indexation.

Works-in-kind Agreements

As the local drainage works have been constructed, payment of the contributions via a Works In Kind is not feasible.

Land

As no land is required for the purpose of providing these works, offsetting of contributions via dedication of land is not possible in respect to these contributions.

4.2 Timing of Payment

Council's policy regarding the timing of payment of S.94 contributions is as follows:

Approved under the EP & A Act as amended on July 1, 1998

- Development Applications involving subdivisions
Prior to release of the Subdivision Certificate
- Development Applications involving building work
Prior to release of Building Construction Certificate.
- Development Applications where no building approval is required
Prior to occupation or use of the development.

4.3 Credits for Existing Development

As S.94 contributions can only be levied where development will result in increased demand, contributions are not sought in relation to demand for urban facilities generated by existing authorised development. Thus 'credits' are granted in relation to urban demand generated by existing authorised development.

In instances where an existing authorised dwelling is to be demolished and replaced by a new dwelling, and the replacement dwelling proposes vehicular access to the same street as the existing dwelling, credits for this street frontage and 450m² (less if lot size is smaller than 450 m²) and 3.5 persons for the per hectare and per person contributions applicable under other C.P=s, are applied.

In other instances (industrial/commercial development) a credit is calculated having regard for the actual area occupied and retained for use by the existing authorised development and/ or an estimate of the increase in intensity of use of the site. The appropriate credit method is determined by Council having regard for the individual circumstances of each case.

The area occupied is determined having regard to both the current and previous applications, aerial photos, the area occupied by existing authorised buildings and authorised activities on site.

Residue lots are generally not levied until they are further developed. In residential zones Council places a restriction (under Section 88b of the Conveyancing Act) on residue lots to deny any further development of the lot until it is further subdivided, consolidated or has a separate development application approval. Contributions are then levied upon further subdivision, consolidation or separate development approval.

4.4 Indexation and Review of Contributions

Contribution rates are indexed quarterly in accordance with the Consumer Price Index - Sydney - Dwellings (CPI). See also Section 3.3.

The method of indexing the contribution rates is to multiply the base contribution rate by the most recently published CPI at the time of payment and divide it by the *March 2001 CPI (116.5)*. **At all times the contributions payable will not fall below the base rates listed at Appendix C.**

4.5 Discounting of Contributions

Council does not discount contributions both for equity and financial reasons.

The cost of providing the required infrastructure is identified in Council=s financial records. Discounting results in the total S.94 income received being less than that required to provide the infrastructure. As it would be inequitable to recoup a discount from remaining development discounting would result in a shortfall in the contributions received. Discounting contributions would therefore compromise Council=s ability to provide the facilities and place an additional burden on existing residents to subsidise new development, such a position is contrary to one of the major the aims of this C.P. ie, employing a user pays policy.

4.6 Deferred Payment of Contributions

Council's policy for the deferred payment of S.94 contributions is as follows:

- An applicant requesting deferred payment needs to apply in writing to Council. All requests are considered on their merits, having regard for (but not exclusively) the type of work for which the contribution is sought, the rate of development occurring within the area and the impending need to construct the works for which S.94 Contributions are being levied.
- Where deferred payment is approved by Council, the period of time for deferring payment will generally be limited to 12 months.
- If Council approves of the request for deferred payment it is conditional upon the applicant providing a suitable Bank Guarantee and Deed of Agreement.
- Interest is charged on deferred contributions. Council also charges an administrative fee for deferred payment. The interest rate and administrative fee levied for deferred payment of contributions are reviewed annually and appear in Council's Schedule of Fees. A copy of this Schedule is available from Council's Development Services Unit.
- The amount of the Bank Guarantee shall be the sum of the amount of contributions outstanding at the time of deferring payment plus the "interest" over the time of deferred payment. This amount will also represent the amount payable at the end of the deferred payment period.
- The Deed of Agreement is to be prepared by one of Council's Solicitors at full cost to the applicant. In this regard the applicant is to pay Council's Solicitor's costs direct to the Solicitor and not through Council.

- Should contributions not be paid by the due date the Bank Guarantee will be called up by Council.

Council has a separate deferral policy specifically for dual occupancies which are to be occupied by elderly and/or disabled persons (ie. traditional granny flats).

Enquiries regarding deferred payment can be made to the Town Planner/Engineer dealing with the relevant application.

APPENDICES

APPENDIX A

SCHEDULE OF WORKS – CHARLOTTE ROAD ROOTY HILL

Facility	Actual Capital Cost (March.2001, CPI)	Location	Timing of Provision
Local Drainage	\$213,674	Charlotte Road Rooty Hill	Completed September 1999

**CONTRIBUTION ITEM
CHARLOTTE ROAD ROOTY HILL**

APPENDIX B

LAND TO WHICH THE CONTRIBUTIONS PLAN APPLIES



Contributing Catchment Area (m2)	
Lot 14	3,997
Lot 15	4,143
Lot 16	4,025
Total	12,165

**CONTRIBUTION ITEM
CHARLOTTE ROAD ROOTY HILL**

APPENDIX C

**S94 CP NO 12
LOCAL DRAINAGE CHARLOTTE ROAD ROOTY HILL
SCHEDULE OF VALUES IN THE CONTRIBUTION
FORMULAE**

CATCHMENT DESCRIPTION	CONTRIBUTING CATCHMENT AREA (m2)	C1 (\$)
Lots 14,15 &16 DP8981	12,165	213,674

**S94 CP NO 12
LOCAL DRAINAGE CHARLOTTE ROAD ROOTY HILL
BASE CONTRIBUTION RATE
(Base CPI March 2001)**

ITEM	CONTRIBUTION RATE (\$ / m2)
Local Drainage	\$17.92

**CONTRIBUTION ITEM
CHARLOTTE ROAD ROOTY HILL**