
WELLINGTON COUNCIL

Section 94A Development Contributions Plan 2012

Draft Plan

DATE OF ADOPTION

Version B 18 June 2012

Table of Contents:

Part A Summary Schedules.....	2
Table 1: Works Program - Public facilities for which levies are sought.....	2
Table 2: Levies payable for development.....	2
Part B Expected Development and Demand for Public Facilities	3
Part C Administration and Operation of the Plan.....	5
1.1 Name of Plan.....	5
1.2 Commencement.....	5
1.3 Purpose of Plan.....	5
1.4 Land to which Plan applies.....	5
1.5 Relationship with other development contribution plans.....	5
1.6 What does Section 94A of the Act provide?	6
1.7 Payment of levy as condition of consent	6
1.8 Are there any exemptions to the levy?	7
1.9 How will the levy be calculated?	8
1.10 Cost estimate reports	9
1.11 Obligations of certifying authorities.....	9
1.12 Application of money obtained under this Plan.....	9
1.13 Priorities for expenditure	9
1.14 Pooling of levies	9
1.15 When is the levy payable?.....	10
1.16 Deferred or periodic payments	10
1.17 Indexing of levy	11
Part D References	12
Dictionary	12
APPENDIX A	14
Determination of proposed cost of development	14
Procedure.....	15
Cost Summary Report.....	16
Registered Quantity Surveyors Detailed Cost Report	17
APPENDIX B	18
Works Schedule	18

Part A Summary Schedules

The following summary schedules are included in this plan:

- Works program (Table 1)
- Summary of levy charges (Table 2)

Levies paid to Council will be applied towards meeting the cost of provision or augmentation of public facilities. Table 1 provides a summary of the public facilities, which will be provided by Council over the next 5 years, as well as the estimated cost of provision and timing. Table 2 identifies the levy charges in accordance with the Ministers Direction dated 10 November 2006.

Table 1: Works Program - Public facilities for which levies are sought

Public Facilities	Estimated Costs	Estimated Time Frame
Transport	\$13,409,000	2022
Buildings	\$2,695,000	2022
Parks and Gardens	\$570,000	2022
Other	\$200,000	2015
Caves	\$157,000	2022
Swimming Pool	\$209,000	2021
Waste Management	\$1,000,000	2022
Cemeteries	\$270,000	2022
TOTAL	\$18,510,000	2022

Refer to Appendix B for detailed Works Schedule.

Table 2: Levies payable for development

Proposed cost of development	Contribution rate
Proposed cost of development \$100,000 or less	Nil
Proposed cost of development is between \$100,001 and \$200,000	0.5% of the proposed cost of development
Proposed cost of development exceeds \$200,001	1% of the proposed cost of development

Refer to section 1.8 for exemptions to the levy.

Part B Expected Development and Demand for Public Facilities

This part discusses the relationship between the expected development types in the Wellington Local Government Area and the demand for additional public amenities and services to meet that development.

The types of expected development include, but are not limited to:

- Power Station Developments;
- Wind Power Developments;
- Regional Developments;
- State Significant Developments;
- Additions and alterations to existing development;
- Dwellings of all forms;
- Commercial development;
- Industrial development;
- Subdivisions.

The Wellington Local Government Area is projected to continue to experience gradual urban and rural development for the foreseeable future. The relationship between expected development and demand is established through current demographic information.

The Wellington Council Area is between the two larger Regional centres of Dubbo and Orange. This places challenges for growth in Wellington given the draw of the regional centres. Some commuter residential is evident in parts of the Area closer to the regional Centres such as Geurie and Euchareena. But overall the area has seen a slow decrease in population over the past 40 years.

For example the urban area of Wellington has lost approximately 13% of its population since 1976 and despite Council efforts to stimulate growth, it is likely the population over the life of this plan (usually revised after 10 years) will experience a modest further decline.

Despite this slight decline in population, there is demographic change and continued increase in demand for a range of services.

Nationally household sizes continue to shrink as the population ages and trends of smaller households continue. Wellington has over 21% of its population over 65 which is about 7%

above the national average. This coupled with a strong desire of Wellington residents to live in detached dwellings (approximately 90%), sees a continued flow of applications for new dwellings:

Year	New urban dwellings	New rural dwellings	Total dwellings
2008	9	12	21
2009	4	3	7
2010	4	9	13
2011	11	6	17
2012	12	9	21
average	8	8	16

There are other relevant trends such as a rise in single parent households, which are adding to pressures for renovation, expansion and replacement of housing stock.

Existing public services and amenities have been generally designed to accommodate the needs generated by the existing population and demographics. The projected population and demographic changes are expected to impose strains on the existing public facilities and the satisfaction of residents with existing facilities.

It is expected that prospective developments will increase the usage of Council amenities and infrastructure and create some need for changes in the infrastructure mix (for example an aging population requires more investment in accessibility facilities). As such, future development will need to be sustained by ongoing investment in the provision, extension and augmentation of infrastructure and services. Much of the cost for this new or altered infrastructure will come from other Council funding but Council considers it appropriate that developers make a reasonable contribution toward the cost of providing this infrastructure, given new development is a significant factor in generating the increased demand.

Part C Administration and Operation of the Plan

1.1 Name of Plan

This development contributions plan is called the Wellington Council Section 94A Development Contributions Plan 2012 (Section 94A Plan). This Plan has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

1.2 Commencement

This Development Contributions Plan takes effect from the date on which public notice was published, pursuant to Clause 31(4) of the *Environmental Planning and Assessment Regulation 2000*.

This Development Contributions Plan was adopted by Council at its meeting (date to be inserted) and came in to force (date to be inserted).

1.3 Purpose of Plan

The primary purposes of this Plan are:

- to authorise the imposition of a condition of development consent requiring the payment to Council of a levy determined in accordance with this Plan pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*
- to govern the application of monies paid to Council under a condition of development consent provided for under this Plan
- to assist the Council in providing the appropriate public facilities which are required to maintain and enhance amenity and service delivery within the area

1.4 Land to which Plan applies

This Development Contributions Plan applies to all land within the Local Government Area of Wellington.

1.5 Relationship with other development contribution plans

This Plan repeals the Wellington Development Control Plan No 4 Section 94 Contributions Plan 2006. All development contributions levied from the commencement of this plan will be in accordance with this plan only.

Contributions levied under the Wellington Development Control Plan No 4 Section 94 Contributions Plan 2006 (DCP No 4), required to be paid to Council as a condition of consent for

a consent granted before commencement of this plan shall be collected in accordance with the conditions of that consent and applied in accordance with DCP No 4.

1.6 What does Section 94A of the Act provide?

Section 94A of the Act provides as follows:

94A Fixed development consent levies

- (1) *A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*
- (2) *A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 94.*
- (2A) *A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of:*
 - (a) *the Minister, or*
 - (b) *a development corporation designated by the Minister to give approvals under this subsection.*
- (3) *Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*
- (4) *A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.*
- (5) *The regulations may make provision for or with respect to levies under this section, including:*
 - (a) *the means by which the proposed cost of carrying out development is to be estimated or determined, and*
 - (b) *the maximum percentage of a levy.*

1.7 Payment of levy as condition of consent

This plan authorises the Council to grant consent to development to which this plan applies subject to a condition requiring the applicant to pay the Council a levy calculated as per clause 1.9.

1.8 Are there any exemptions to the levy?

In accordance with the Ministers Direction dated 10 November 2006, the levy will not be imposed in respect of development:

- where the proposed cost of carrying out the development is \$100,000 or less;
- for the purpose of providing disabled access; or
- for the sole purpose of providing affordable housing; or
- for the purpose of reducing a buildings use of potable water, where supplied from water mains or reducing the energy consumption of a building; or
- for the sole purpose of the adaptive reuse of an item of environmental heritage, or
- that has been the subject of a condition under section 94 under a previous development consent relating to the subdivision of the land on which the development is to be carried out.

Council may consider exempting other development, or components of development from the section 94A levy. If a development meets one or more of the following criteria, an exemption may be considered by Council:

- developments that incorporate the maintenance of an item of heritage significance;
- developments that contribute to the public benefit of the community, and
- developments where there is no increase in future demand on public amenities and services.

Such development includes, but is not limited to:

- Community infrastructure such as libraries, child care facilities, recreational areas, recreational facilities or car parks;
- Public infrastructure including hospitals, police stations, educational facilities and public transport infrastructure ;
- Privately funded community infrastructure such as education facilities, universities and private hospitals;
- Industrial, retail or commercial development, where there is no increase in floor space within an existing building, and
- An application for demolition where there is no replacement building or development.

For an exemption to be considered any such development application will need to be accompanied by a comprehensive submission arguing for exemption and including details of:

- Under which point the exemption is to be considered; and
- The mechanism ensuring that such development will remain in the form proposed in the future; and
- Other items if applicable:
 - o How the development will incorporate the maintenance of the item of heritage significance
 - o How the development will contribute to the public benefit of the community
 - o How the residents/users will utilise existing private facilities attached to the development that replicate those types provided by Council.

1.9 How will the levy be calculated?

The levy will be determined on the basis of the rate as set out in the summary schedule. The levy will be calculated as follows:

$$\text{Levy payable} = \%C \times \$C$$

Where

%C is the levy rate applicable

\$C is the proposed cost of carrying out the development

The proposed cost of carrying out the development will be determined in accordance with clause 25J of the *Environmental Planning and Assessment Regulation 2000*. The procedures set out in Appendix A to this Plan must be followed to enable the Council to determine the amount of the levy to be paid.

The value of the works must be provided by the applicant at the time of request. A formal Cost Summary Report as detailed in Appendix A is required for development of value over \$150,000. Where development exceeds \$5,000,000, the report must be independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications.

Without limitation to the above, Council may review the valuation of works and may seek the services of an independent person to verify the costs. In these cases, all costs associated with obtaining such advice will be at the expense of the applicant and a Construction Certificate will not be issued until such time that the levy has been paid.

1.10 Cost estimate reports

A Development Application or a Complying Development Certificate for development exceeding \$150,000 in value and up to \$5,000,000 is to be accompanied by a Cost Summary report as detailed in Appendix A.

For developments exceeding \$5,000,000 in value a report prepared by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors or a person who can demonstrate equivalent qualifications is to be provided at the applicants cost. The report is to set out an estimate of the proposed cost of carrying out the development for the purposes of clause 25J of the *Environmental Planning and Assessment Regulation 2000*, as per Appendix A.

1.11 Obligations of certifying authorities

In accordance with clause 146 of the *Environmental Planning and Assessment Regulation 2000*, a certifying authority must not issue a Construction Certificate for building work or subdivision work under a development consent, unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid. Copies of such receipts must be included with copies of the certified plans provided to the Council in accordance with clause 142(2) of the *Environmental Planning and Assessment Regulation 2000*. Failure to follow this procedure may render such a certificate invalid.

1.12 Application of money obtained under this Plan

Money paid to Council under a condition authorised by this Plan is to be applied by the Council towards meeting the cost of the public facilities that will be or have been provided within the Wellington Local Government Area.

1.13 Priorities for expenditure

The public facilities listed in Part A Table 1 are proposed to be provided in accordance with the staging set out in Appendix B to this Plan.

1.14 Pooling of levies

Subject to Section 93E(2) of the *Environmental Planning and Assessment Act 1979*, this Plan authorises section 94A levies paid for different purposes to be pooled and applied, progressively or otherwise for those purposes. The priorities for the expenditure of the levies are shown in the Works Program, Appendix B to this Plan.

1.15 When is the levy payable?

A levy must be paid to the Council at the time specified in the condition that imposes the levy. If no such time is specified, the levy must be paid prior to the issue of a construction certificate or complying development certificate.

1.16 Deferred or periodic payments

Deferred or periodic payments may be permitted in the following circumstances:

- Deferred or periodic payment of the contribution will not prejudice the timing or the manner of the provision of public facilities included in the Works Program, Appendix B to this Plan; or
- In other circumstances considered reasonable by Council.

If Council does decide to accept a deferred or periodic payment, Council may require the applicant to provide an unconditional bank guarantee by a financial institution acceptable to Council for the full amount of the contribution or the outstanding balance on condition that:

- the bank guarantee be by a bank for the amount of the total contribution, or the amount of the outstanding contribution, plus an amount equal to thirteen (13) months interest plus any charges associated with establishing or operating the bank security
- the bank unconditionally pays the guarantee sum to the Council if the Council so demands in writing not earlier than 12 months from the provision of the guarantee or completion of the work
- the bank must pay the guaranteed sum without reference to the applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development
- the banks obligations are discharged when payment to the Council is made in accordance with this guarantee or when Council notifies the bank in writing that the guarantee is no longer required
- where a bank guarantee has been deposited with Council, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.

1.17 Indexing of levy

Contributions required as a condition of consent under the provisions of this plan will be adjusted at the time of payment of the contributions in accordance with the following formula:

$$\text{Contribution at the time of payment} = \$C_0 + A$$

Where:

\$C₀ is the original contribution as set out in the consent

A is the adjustment amount which is =

$$\frac{\$C_0 \times ([\text{Current Index} - \text{Base Index}])}{[\text{Base Index}]}$$

Where:

Current index is the Consumer Price Index, Australia for Sydney as published by the Australian Bureau of Statistics available at the time of review of the contribution rate

Base Index is the Consumer Price Index, Australia for Sydney as published by the Australian Bureau of Statistics used in the preparation of this plan which is 178.8 March 2012.

Note: In the event that the Current Consumer Price Index is less than the previous Consumer Price index, the indexed rates will remain the same.

Part D References***Dictionary***

In this Plan, unless the context or subject matter otherwise indicates or requires, the following definitions apply:

EP& A Act means the Environmental Planning and Assessment Act 1979

Environmental heritage means those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.

Certifying Authority means a person who:

- (a) is authorised by or under section 85A to issue complying development certificates, or
- (b) is authorised by or under section 109D to issue Part 4A certificates.

Complying Development Certificate means a complying development certificate referred to in section 85 of the EP&A Act.

Council means Wellington Council

Cost Summary Report means a report setting out an estimate of the proposed cost of carrying out the development, required to be submitted under this Plan for development with a value over \$150,000. Where the value exceeds \$5,000,000, the report will need to be prepared by a registered Quantity Surveyor.

Development means:

- (a) the use of land, and
- (b) the subdivision of land, and
- (c) the erection of a building, and
- (d) the carrying out of a work, and
- (e) the demolition of a building or work, and
- (f) any other act, matter or thing referred to in section 26 that is controlled by an environmental planning instrument,
but does not include any development of a class or description prescribed by the regulations for the purpose of this definition.

Development Application means an application for consent under Part 4 to carry out development but does not include an application for a complying development certificate.

Exemption refers to development listed in Part 1.8 of this Plan on which the levy will not be imposed.

Levy means a levy under section 94A of the EP&A Act authorised by this plan

Local Government Area means the land within the boundary of the Wellington Shire

Minister means the Minister administering the EP&A Act

Quantity Surveyors Report means a report prepared by a registered Quantity Surveyor setting out an estimate of the proposed cost of carrying out the development, required to be submitted under this Plan for development with a value of or greater than \$5,000,000.

APPENDIX A***Determination of proposed cost of development***

Clause 25J of the *Environmental Planning and Assessment Regulation 2000* sets out how the proposed cost of development is to be determined. The clause provides as follows:

25J Section 94A levy – determination of proposed cost of development

- (1) *The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 94A levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:*
 - (a) *if the development involves the erection of a building, or the carrying out of engineering or construction work - the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,*
 - (b) *if the development involves a change of use of land - the costs of or incidental to doing anything necessary to enable the use of the land to be changed,*
 - (c) *if the development involves the subdivision of land - the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.*
- (2) *For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.*
- (3) *The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:*
 - (a) *the cost of the land on which the development is to be carried out,*
 - (b) *the costs of any repairs to any building or works on the land that are to be retained in connection with the development,*
 - (c) *the costs associated with marketing or financing the development (including interest on any loans),*
 - (d) *the costs associated with legal work carried out or to be carried out in connection with the development,*
 - (e) *project management costs associated with the development,*
 - (f) *the cost of building insurance in respect of the development,*

- (g) the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),*
 - (h) the costs of commercial stock inventory,*
 - (i) any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,*
 - (j) the costs of enabling access by disabled persons in respect of the development,*
 - (k) the costs of energy and water efficiency measures associated with the development,*
 - (l) the cost of any development that is provided as affordable housing,*
 - (m) the costs of any development that is the adaptive reuse of a heritage item.*
- (4) The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.*
- (5) To avoid doubt, nothing in this clause affects the determination of the fee payable for a development application.*

Procedure

A cost summary report is required to be submitted to allow Council to determine the contribution that will be required. The following should be provided:

- A cost summary report must be completed by the applicant for development for works with a value of between \$150,000 and \$5,000,000.
- A Quantity Surveyors Detailed Cost Report must be completed by a registered Quantity Surveyor for works with a value of and greater than \$5,000,000.

Cost Summary Report**Wellington Council**

TELEPHONE: (02) 68401700
 FACSIMILE: (02) 68401791
 EMAIL: mail@wellington.nsw.gov.au

Cost Summary Report

(Development Cost between \$5,000,000 and \$10,000,000)

Development Application Number:		Reference:	
Complying Development Certificate Application Number:			
Construction Certificate Number:		Date:	
Applicant's Name:			
Applicant's Address:			
Development Name:			
Development Address:			

Analysis of Development Costs:

Demolition and Alterations	\$	Hydraulic Services	\$
Structure	\$	Mechanical Services	\$
External Walls, Windows and Doors	\$	Fire Services	\$
Internal Walls, Screens and Doors	\$	Lift Services	\$
Wall Finishes	\$	External Works	\$
Floor Finishes	\$	External Services	\$
Ceiling Finishes	\$	Other Related Work	\$
Fittings and Equipment	\$	Sub Total	\$

Sub-Total Above Carried Forward	\$
Preliminaries and Margin	\$
Sub-Total	\$
Consultant Fees	\$
Other Related Development Costs	\$
Sub-Total	\$
Goods and Services Tax	\$
TOTAL DEVELOPMENT COST	\$

I certify that I have:

- Inspected the plans the subject of the application for development consent or construction certificate.
- Calculated the development costs in accordance with the definition of development costs in clause 25J of the Environmental Planning and Assessment Regulation 2000 at current prices.
- Included GST in the calculation of development cost.

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____

Registered Quantity Surveyors Detailed Cost Report**Wellington Council**

TELEPHONE: (02) 68401700
 FACSIMILE: (02) 68401791
 EMAIL: mail@wellington.nsw.gov.au

Registered* Quantity Surveyor's Detailed Cost Report

(Development Cost in Excess of \$10,000,001.00)

*A Member of the Australian Institute of Quantity Surveyors

Development Application Number:		Reference:	
Complying Development Certificate Application Number:			
Construction Certificate Number:		Date:	
Applicant's Name:			
Applicant's Address:			
Development Name:			
Development Address:			

Development Details:

Gross Floor Area – Commercial	m ²	Gross Floor Area - Other	m ²
Gross Floor Area – Residential	m ²	Total Gross Floor Area	m ²
Gross Floor Area - Retail	m ²	Total Site Area	m ²
Gross Floor Area – Car Parking	m ²	Total Car Parking Spaces	
Total Development Cost	\$		
Total Construction Cost	\$		
Total GST	\$		

Estimate Details:

Professional Fees	\$	Excavation	\$
% of Development Cost	%	Cost per m ² of site area	\$/m ²
% of Construction Cost	%	Car Park	\$
Demolition & Site Preparation	\$	Cost per m ² of site area	\$/m ²
Cost per m ² of site area	\$/m ²	Cost per space	\$/space
Construction - Commercial	\$	Fit-Out – Commercial	\$
Cost per m ² of Commercial Area	\$/m ²	Cost per m ² of Commercial Area	\$/m ²
Construction – Residential	\$	Fit-Out – Residential	\$
Cost per m ² of residential area	\$/m ²	Cost per m ² of Residential Area	\$/m ²
Construction – Retail	\$	Fit-Out – Retail	\$
Cost per m ² of Retail Area	\$/m ²	Cost per m ² of Retail Area	\$/m ²

I certify that I have:

- Inspected the plans the subject of the application for development consent or construction certificate.
- Prepared and attached an elemental estimate generally prepared in accordance with the Australian Cost Management Manuals from the Australian Institute of Quantity Surveyors
- Calculated the development costs in accordance with the definition of development costs in the S94A Development Contributions Plan of the Council of Wellington at current prices.
- Included GST in the calculation of development cost.
- Measured gross floor areas in accordance with the Method of Measurement of Building Area in the AIQS Cost Management Manual Volume 1, Appendix A2

Signed: _____

Name: _____

Position and Qualifications: _____

Date: _____

APPENDIX B**Works Schedule**

The works listed in this schedule may be funded from a mix of sources, including contributions collected from this plan.

Section 94A Development Contributions Plan			
No	Item Description	Estimated Cost	Council's 10 year Asset Management Plan 2012 - 2022
Transport and Associated Infrastructure			
1	As listed in Council's 10 year Asset Management Plan	\$13,409,000	2012 - 2022
Council/Community Maintained Buildings and Infrastructure			
2	As listed in Council's 10 year Asset Management Plan	\$2,100,000	2012 - 2022
Wellington Showground			
3	As listed in Council's 10 year Asset Management Plan	\$300,000	2012 - 2022
Wellington Caves/Caves Caravan Park Complex			
4	As listed in Council's 10 year Asset Management Plan	\$720,000	2012 - 2022
Wellington LGA Parks and Gardens			
5	As listed in Council's 10 year Asset Management Plan	\$774,000	2012 - 2022
Village Assets			
6	As listed in Council's 10 year Asset Management Plan	\$120,000	2012 - 2022
Community Swimming Pool			
7	As listed in Council's 10 year Asset Management Plan	\$309,000	2012-2022
Environmental Management and Cemeteries			
8	As listed in Council's 10 year Asset Management Plan	\$1,270,000	2012 - 2022