

# Section 94 - Acceptance Of Section 94 Credits

Version 01

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## Policy Objectives

To provide a comprehensive policy framework within which to make decisions about Section 94 credits. This policy should be read in conjunction with Council's adopted policies on Material Public Benefit, Works-in-Kind, Dedication of Additional Open Space Land, and Land Banking.

## Policy Statement

Where the value given to a Material Public Benefit, Works-in-Kind or dedication of land is less than the value of the monetary contribution due, the applicant is required to settle the balance of the contribution by way of financial contribution and/or land dedication.

Where the value given to the dedication of land, Material Public Benefit or Works-in-Kind exceeds the value of the contribution, Council will consider accepting a "credit" for this additional proportion. However, credits will only be accepted in exceptional circumstances and at Council's absolute discretion. Council reserves the right to require payment of a monetary contribution or to terminate the "credit agreement" should the applicant be unwilling or unable to meet its terms. No credit will be given for land or works which are not nominated in the works schedule in the relevant contributions plan.

It is an essential prerequisite that all dedication of land, Material Public Benefit or Works-in-Kind proposals are to meet the requirements of the relevant Council policy on these matters, prior to consideration of a credit arrangement. Due consideration will then be given to the following options, in order of priority:

- (i) The opportunity to stage dedication of land or construction of works.
- (ii) Council may consider offsetting contributions from another facility category imposed for the same or subsequent developments by the same applicant, against the excess land or value of works. Due consideration will be given to:
  - The land or works being items nominated in the work schedules of the contributions plan.
  - The priority to construct the works for which the contributions are to be offset, and the impact on the provision of other amenities or facilities in the adopted work schedule.
  - The rate of development in the area, and an assessment of the length of time before the offset amount is repaid.
- (iii) If an applicant has further land to be developed in the area to which the contributions plan applies, Council may hold excess land or value of works as a "credit" for future development by that applicant.

Credit will only be offset against contributions for the same facility category, and will not apply to development on land outside the area of the contributions plan. No credit will be given for land or works which are not nominated in the work schedules of the relevant contributions plan. The amount and terms of the credit are to be negotiated prior to the dedication of land or commencement of works, and will be for the additional value only as agreed by Council.

Credit for works exceeding the value of the contribution will not be redeemable in cash from Council, should the applicant choose not to undertake future development. The redemption of credit for dedication of land in excess of requirements will be considered

strictly in accordance with Council's adopted policy on land banking.

The offset for future stages of development will be determined on the basis of the contribution rate at the time of the subsequent development.

- (iv) Council may consider reimbursing the excess dedication of land or value of works, under the following terms:

The amount and terms of the reimbursement are to be negotiated prior to the dedication of land or commencement of works, and will be for the additional value only as agreed by Council.

Reimbursement will only be made immediately at the time of completion of works. Reimbursement over an extended period of time or from subsequent contributions will not be considered.

Reimbursement will only be made where sufficient contributions are held by Council and uncommitted at the time the work is completed.

If a credit arrangement cannot be negotiated within the terms of one of the above options, Council may refuse the dedication of land, Material Public Benefit or Works-in-Kind proposal, and require a monetary contribution.

If the terms of one of the options numbered (i) to (iv) is considered acceptable, the matter will be referred to the Section 94 Administration Committee for consideration, prior to submission to Council for determination.