



IAB Services

**CENTRAL TABLELANDS ALLIANCE  
COUNCILS**

*Consolidated Report:*

**REVIEWS OF  
DEVELOPMENT ASSESSMENT,  
SECTION 64 AND SECTION 94  
REVENUE AND EXPENDITURE**

**DRAFT      AUGUST 2011**

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## TABLE OF CONTENTS

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<b>EXECUTIVE SUMMARY.....</b>	<b>1</b>
INTRODUCTION.....	1
OBJECTIVE.....	1
METHODOLOGY AND SCOPE .....	1
SUMMARY OF FINDINGS.....	2
ACCOUNTABILITY AND RESPONSIBILITY.....	4

# EXECUTIVE SUMMARY

## INTRODUCTION

This review of Development Assessment, Section 64 and Section 94 Revenue and Expenditure was instigated by the Central Tablelands Alliance (CTA) Internal Audit Committee in March 2011 as part of the approved 2011 Internal Audit Plan.

Note: In this review we have used the Independent Commission Against Corruption's *Development Assessment Internal Audit Tool*, published in April 2000 for use by councils in managing their exposure to corruption risks in development approval processes.

## OBJECTIVE

The overall objective of this assignment was to review the adequacy and effectiveness of internal control and administrative arrangements relating to:

- The determination of Development Applications (DAs), Construction Certificates (CCs), Complying Development Certificates (CDCs) and Occupation Certificates (OCs)
- The levying of Section 64 (S64) and Section 94/94A (S94/94A) developer contributions and the collection and accounting of revenue
- Ensuring that related expenditure is consistent with the agreed Contribution Plans.

## METHODOLOGY AND SCOPE

We used a risk-based audit methodology for this review, which included the following audit procedures:

- Discussions with Planning and Development, Finance and Administration, Customer Service and Operations staff
- Examining system control documentation in order to assess the efficiency and effectiveness of processes and to determine the extent to which they comply with relevant policy and procedures.
- Reviewing administrative practices in order to identify improvements and reduce any potential financial risks that could result from current processes and procedures.

The scope of the review included the following items:

- Assessing compliance with legislation, etc., including:
  - Environment Planning and Assessment Act 1979 (EP&A Act) and regulations,
  - Local Government Act 1993 (LG Act) and regulations,
  - Water Management Act 2000 (WM Act),

## EXECUTIVE SUMMARY

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- Local Environment Plan (LEP),
  - Development Control Plans (DCPs),
  - S64 and S94/94A Plans
  - Council policies and procedures
- Reviewing risks and internal controls over the receiving, assessing and processing of DAs, CCs, CDCs and OCs including compliance issues and breaches
  - Assessing reported performance levels against pre-determined target performance levels developed by Council
  - Reviewing a random representative sample of DAs to determine compliance and the effectiveness of the steps leading to the issue of a Final Notice of Determination, including calculation and receipt of all relevant fees and any S64 and S94/94A levies
  - Assessing the accuracy and completeness of the Contributions Registers, including controls over the monitoring of contributions due
  - Reviewing Council expenditure of these contributions towards the provision or improvement of amenities or services
  - Assessing the accuracy and completeness of S64 and S94/94A project reporting against planned expenditure.

The ICAC *Development Assessment Internal Audit Tool* was also completed.

## SUMMARY OF FINDINGS

As a benchmarking exercise, we have prepared a consolidated report of our findings across the three Councils reviewed.

Readers of this report should note the following matters:

1. The report is prepared on an exception basis. Our focus in this consolidated report is on observations that, in our view, present some ongoing risk to Council operations. Consequently, we have not provided commentary on areas that we found to be compliant or reflecting entirely satisfactory outcomes.
2. While the observations are presented as they were reported to the individual Councils reviewed, these observations are relevant to all three Councils reviewed to various degrees.

We trust that our findings present valuable information to the Internal Audit Committee that may be used by the reviewed Councils' managements to benchmark performance and further improve internal controls over their Development Assessment, Section 64 and Section 94 environments. Individual Councils have been de-identified in this report.

**Overall, controls were assessed as ADEQUATE.** However, the following matters were identified where controls and processes could be further improved:

### COUNCIL A

- Our review of S94 developer contribution calculations showed that Council had been undercharging a minor amount for each DA during 2011. This error has since been corrected in Proclaim. A review of S94 Contributions Registers noted that all payments received in 2011 were also incorrect (including those amounts for DAs determined in previous years but paid in 2011).

Note: Discussions with management indicated that it may not be good business practice to try and retrieve these additional payments from applicants but we recommended that management should review any options to obtain the undercharged S94 amounts, wherever practicable, e.g. an applicant seeking a modification (MA) to the original DA may present an opportunity to recover funds.

- Develop procedures for completion of Meeting Notes for pre-lodgement advice. The meeting notes for one DA were considered to be insufficient and had to be supplemented by a post-memo as this DA went to Council. Discussions indicated that new Meeting Notes forms have been introduced.
- Health and Building (H & B) Surveyors can solely take applications, prepare Assessment reports, approve consents, issue CCs and undertake inspections. Discussions with management indicated that Assessment reports for Planning staff are now signed-off by supervisors/managers but this does not happen with H & B. We have recommended that management should consider that such sign-offs also apply to H & B staff.

### COUNCIL B

- Clarify the criteria for the determination of Development Applications by Council or through local delegation.
- Modify checklists for construction certificates with reference to legislative compliance of the EPA Act and Regulation and include evaluation criteria for peer review prior to issue.
- Promote a proactive approach to the identification of illegal construction and non compliance through strategies such as an Amnesty to allow owners to remedy any building works through submission of a Development Application.
- Undertake a comprehensive review and update of Contributions Plans in line with the projected outcomes from the Community Strategic Plan and include options for Planning Agreements and S94A Plans.
- Council should acknowledge their financial responsibility to ensure that any impacts on local services and infrastructure from private development are fully recovered from application of contributions levies rather than self funding through its own limited budget resources.

### COUNCIL C

- Reconcile the existing S94 Contributions prior to the adoption of an alternate S94A Contributions Plan.
- Ensure that the S94 Contributions Register complies with EPA Regulations
- Finalise the recommended actions outlined in the 2010 internal Development Application Process Review
- Review and update Council's Development Assessment Guide 2006 to include subsequent changes in legislation and policy and procedures.
- Finalise the approval of delegations for planning officers and introduce on-going regular reviews.
- Ensure that checklists and inspection documents are retained on file or electronically to provide an 'audit trail' to check DA determinations and issue of certificates by senior officers.
- Develop a formal policy and procedure for Illegal and Non Compliant Construction.
- Promote a proactive approach to the identification of illegal construction and non compliance through strategies such as an Amnesty to allow owners to remedy any building works through submission of a Development Application.
- Undertake a comprehensive review and update of Contributions Plans in line with the projected outcomes from the Community Strategic Plan and include options for Planning Agreements and S94A Plans.

The above matters and others listed in the Detailed Reports have been discussed with individual Council Management and it was agreed that they would be actioned, as soon as practicable.

### ACCOUNTABILITY AND RESPONSIBILITY

IAB Services takes responsibility for this report, which is prepared on the basis of the limitations set out below.

The matters raised in this consolidated report are based on our reports to the individual CTA Councils and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Further, they have been "normalised" in their risk ratings to reflect additional considerations following management responses to our draft reports received prior to the issue of our final reports. Councils should assess recommendations for improvements for their full commercial and operational impact before they are implemented.

We are available to provide additional information and/or advice on individual recommendations should Councils consider this of value.

The table on the final pages of this report lists our principal observations arising from the audits carried out.

## EXECUTIVE SUMMARY

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The audit used the ICAC internal audit tool to review council's development assessment and determination processes. The tool incorporates compliance with some key legislative provisions and focuses on procedural controls.

This report is confidential, has been prepared solely for the CTA Internal Audit Committee, and ownership of the report and any attachments lies with the Committee. It is the responsibility of the Committee to determine if they wish to release this report, in whole or in part. However, this should not occur without our prior written consent.

No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose.

The CTA Councils should assess recommendations for improvements for their full commercial and operational impact before they are implemented.

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## CENTRAL TABLELANDS ALLIANCE

### REVIEW OF DEVELOPMENT ASSESSMENT, SECTION 64 AND SECTION 94 REVENUE AND EXPENDITURE

#### CONSOLIDATED FINDINGS TABLE

AUDIT FINDING	A	B	C	GENERAL COMMENT
1. Pre-Lodgement Advice procedural controls are adequate	L	M	L	Meeting Notes to be recorded on file for reference to DA.
2. Lodgement procedural controls are adequate	L	L	L	No procedure in place to verify DA cost estimates. Checklist in place does not ensure applications received are complete. Checklist should clarify the type of information to be provided.
3. Assessment procedural controls are adequate	L	M	M	Supervisory review controls over Final Assessments for Health & Building staff are not always in place.
4. Determination procedural processes are adequate	L	L	L	No process in place to ensure conditions added to a DA by Council are always complied with prior to and during construction where Council is not the PCA. No process in place to report any future political donations by applicants.
5. Determination and provision of direct and indirect contributions procedural controls are adequate	M	M	M	Undercharge (minor amount) per S94 calculations during 2011 for Council A. Processes not always in place to ensure CDC applicants pay S94A levies where Council is not the PCA. Some inaccuracy/indexation of S94 levies.
6. Contributions Plans should be reviewed to align with outcomes in the new Community Strategic Plans	L	L	L	New IPR requirements
7. Planning Agreement procedural controls are adequate	L	N/A	M	Council B has not introduced any Planning Agreements prior to the review.
8. Delegations are current and accurately reflect DA responsibilities.	L	L	M	Delegations must be regularly reviewed.
9. Availability of up-to-date DA Guide for planning staff	L	L	M	Legislative changes and policy and procedures are regularly edited in the local Guide for planning staff.

AUDIT FINDING	A	B	C	GENERAL COMMENT
10. S94 Register is up to date and reconciled with individual plans.	L	M	H	On-going records to carry over between financial years; Capital works programs should be clearly recorded where S94 is utilized.
11. S64 Developer Service Plans are adequate	L	M	M	S64 Plans must be adequate for future capital and maintenance works for water and sewerage.
12. Enforcement of Illegal and Non Compliant development	L	L	L	Councils need a policy and procedure to monitor potential incidents.

### LEGEND

<b>H</b>	<b>High</b>	High risk, urgent management attention is needed
<b>M</b>	<b>Moderate</b>	Moderate risk, management responsibility must be specified
<b>L</b>	<b>Low</b>	Low risk, manage by routine procedures
	<b>N/A</b>	Not assessed or not considered significant