



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11th September 2007

DSDS8	DRAFT SOUTH WEST ROCKS SECTION 94A DEVELOPER CONTRIBUTIONS PLAN FILE: 556 DM1	{Folio No. *}
--------------	--	----------------------

SUMMARY:

Reporting that a Section 94A Plan has been prepared for the purposes of Public Exhibition

◆◆◆◆◆

Background

Council resolved at the Ordinary Meeting of 17th April 2007 to seek fee proposals from qualified firms to undertake the preparation of new developer contribution plans to cover the township of South West Rocks, as authorised under section 94 of the *Environmental Planning and Assessment Act (1979)* [*The Act*]. Fee proposals were sought from seven (7) planning consultancies, with GHD Pty Ltd appointed in May to undertake the project.

Under *section 94 of the Act*, a Council can require a contribution from developers for the provision of services, facilities and infrastructure that will be needed to meet the changed population demands due to new development. A Council must however prepare and adopt a Developer Contribution Plan that acts as a strategic planning document to authorise the contribution.

A Section 94A Plan allows Council to authorise the imposition of a flat rate contribution levy on new development within identified precincts. The plan relates to projects in non-residential areas where the total development cost is determined to be greater than one hundred thousand dollars (\$100,000.00).

This Report recommends to Council that the Draft South West Rocks Section 94A Contribution Plan be placed on Public Exhibition for a period of twenty eight (28) days and the public be invited to comment.

A further report will be presented to Council in relation to another Section 94 Plan being prepared in respect to residential development at South West Rocks.

Application of S94A Legislation

Section 94A (S94A) authorises a Council to collect a developer contribution based upon a flat rate levy determined as a percentage of the total capital costs of the development, but does not include the land. The rate is fixed by the legislation with a maximum rate of 0.5% on projects of value between \$100,001 and \$200,000 increasing to a maximum of 1.0% for projects with capital works value greater than \$200,000.

No contribution can be levied on developments with a capital works value of \$100,000 or less.

The reforms to the Act with the introduction of S94A provide greater flexibility in the application of contributions specifically the pooling of the levies collected for different purposes. This allows Council to utilise the funds progressively according to the work schedule. Significantly, the need to prove the nexus between development and additional demand in order to justify a contribution, which is a cornerstone of s.94, is not required under a S94A Plan. Contributions may be applied in a more discretionary manner within the catchment as a result.

South West Rocks S94A Contribution Plan

Within the established business zones at South West Rocks, opportunities are likely to exist for infill developments of mixed medium density residential and commercial development. These "infill" areas will play a significant role in the urban design of the existing town centre. The relevant contribution areas are noted in [\(Appendix N – Page G92\)](#) of the Plan.

The Plan has been prepared with the express purpose of collecting contributions to be used towards the provision of future urban improvements within the South West Rocks village. The contributions will be used within the current 3(v) zoning for public domain improvements. It is considered that the application of S94A is well suited in this case to the funding of public domain infrastructure and improvements which in turn provide opportunities to create responsive urban streetscapes and open spaces in a high use commercial precinct. These are described in [\(Appendix O – Page G93\)](#) of the Plan.

Exemptions and Restrictions on S94A

A S94A levy may not be imposed:

- on the same development application as a S94 contribution;
- where the development is for the purpose of disabled access;
- affordable housing;
- the reduction of a buildings water and / or energy use;
- adaptive reuse of an item of environmental heritage;
- or where it has been subject to a previous condition under S.94 of the Act relating to the subdivision of land.

REPORT IMPLICATIONS:

- *Environmental*

Nil

- *Social*

The contributions obtained under the Plan will provide enhanced community infrastructure and facilities at South West Rocks.

- *Economic (Financial)*

S94A developer contributions allow Council to secure contributions from developers within South West Rocks village to fund specific needs due to increasing demand for public facilities.

- *Policy or Statutory*

The draft Plan will be released for public exhibition. The Plan will be reviewed in response to any community input and represented to Council.

RECOMMENDATION:

That Council endorse the Draft South West Rocks Section 94A Contributions Plan and place it on public exhibition in accordance with the Environmental Planning and Assessment Act 1979 and Regulation 2000, for a period of not less than 28 days.

.....
R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES