



AGENDA

PLANNING AND DEVELOPMENT COMMITTEE

19 SEPTEMBER 2016

MEMBERSHIP:

Mr M Kneipp (Administrator).

The meeting is scheduled to commence at 5.30pm.

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DRAFT POLICY FOR THE DEFERRED PAYMENT OF DEVELOPER CONTRIBUTIONS FOR RESIDENTIAL SUBDIVISION - RESULTS OF PUBLIC EXHIBITION (ID16/1689)	2
The Committee had before it the report dated 13 September 2016 from the Manager City Strategy Services regarding Draft Policy for the Deferred Payment of Developer Contributions for Residential Subdivision - Results of Public Exhibition.	



REPORT: Draft Policy for the Deferred Payment of Developer Contributions for Residential Subdivision - Results of Public Exhibition

AUTHOR: Manager City Strategy Services

REPORT DATE: 13 September 2016

TRIM REFERENCE: ID16/1689

EXECUTIVE SUMMARY

Council at its meeting on 27 July 2016 considered a report in relation to the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision undertaken in Dubbo.

The report recommended that Council adopt an amended draft Policy for the Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo. Council resolved to adopt the report and to publicly exhibit the draft Policy for a period of not less than 28 days.

The draft Policy was placed on public exhibition from 4 August 2016 to 2 September 2016. No submissions were received during the public exhibition period.

Following completion of the public exhibition period and the proclamation of Dubbo Regional Council on 7 September 2016, Council officers have undertaken a further review of the draft Policy and made a number of minor grammatical and other minor changes to reflect the new name of the Local Government Area. In addition, the draft Policy has also been integrated into Council's new Policy template. A copy of the draft Policy is provided here in **Appendix 1**. Any changes undertaken to the draft Policy are shown in red.

Based on the results of the public exhibition period and the potential overall benefits the draft Policy can continue to provide the Dubbo Development Industry, it is recommended that the draft Policy be adopted and that it commence operation from the date the policy will be publically advertised being 6 October 2016. It is also recommended that Council provide the Interim General Manager the delegated authority to enter into any Deed of Agreement made in accordance with the Policy.

FINANCIAL IMPLICATIONS

It is considered that the measures contained in the draft Policy would be cost neutral on the basis of Council levying a fee of 0.5% of the total value of the outstanding contribution. This fee will cover costs incurred in overall administration of the Policy.

The levying of a 0.5% fee will be payable at the time the developer requests Council to withdraw the Caveat over the land.

POLICY IMPLICATIONS

This new Policy, if adopted, will provide further assistance to developers in the development of residential land in Dubbo.

RECOMMENDATION

- 1. That the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivisions provided here in Appendix 1 be adopted.**
- 2. That an advertisement be placed in local print media advising of Council's adoption of the Policy.**
- 3. That the Policy for the Deferred Payment of Developer Contributions for Residential Subdivision commence operation from 6 October 2016.**
- 4. That the Interim General Manager be delegated the authority to enter into any Deed of Agreement made under this Policy.**

Steven Jennings
Manager City Strategy Services

BACKGROUND

Council at its meeting on 27 July 2016 considered a report in relation to the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision undertaken in Dubbo. Council in consideration of the report resolved as follows:

- “1. That the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo, included here in Appendix 1 of the report of the Manager City Strategy Services dated 11 July 2016, be adopted for the purpose of public exhibition.*
- 2. That the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo be placed on public exhibition for a period of 28 days.*
- 3. That an operational review of the Wellington Section 94A Development Contributions Plan 2012 and the Wellington Development Servicing Plan 2006 be included in the City Strategy 2016/2017 Work Program.”*

The draft Policy was originally developed following a request from Delroy Park Pty Ltd to consider an alternative payment scheme for developer contributions for residential subdivision. The request highlighted a common theme in the development industry of the tightening of financial requirements following the Global Financial Crisis (GFC) and the inherent requirements of the finance industry.

During the initial two year operation period of the Policy, Council has received four (4) requests to defer the payment of developer contributions for residential subdivisions. However, of the four requests received, all have been applied for by the one residential land developer in Dubbo.

This report provides the results of the public exhibition period of the draft amended Policy and recommends that Council adopt the draft amended Policy.

REPORT

1. Public Exhibition

The draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo was placed on public exhibition from 4 August 2016 to 2 September 2016.

As a component of the Communications Strategy for the draft amended Policy, an advertisement was placed in the Daily Liberal and the draft amended Policy was made publicly available at the Dubbo Branch of the newly formed Dubbo Regional Council, Dubbo Macquarie Regional Library and on Council’s website.

Council did not receive any submissions during the public exhibition period.

2. Proposed Policy Amendments

Following completion of the public exhibition period, Council officers have undertaken a further review of the draft amended Policy and have made a number of minor grammatical changes. The draft amended Policy has also been integrated into Council's new policy template. In addition, amendments to the Policy have also been required to be undertaken reflecting the new Council name following the proclamation of Dubbo Regional Council on 7 September 2016. A copy of the draft Policy is provided here in **Appendix 1**. Changes undertaken to the draft Policy are shown in red.

It is considered that the changes undertaken to the draft amended Policy do not change the intent or provisions of the Policy and as such, it is considered that the Policy does not require further public exhibition or consultation.

SUMMARY

This report is presented for the consideration of Council and recommends that the draft amended Policy for the Deferred Payment of Developer Contributions for Residential Subdivision be adopted and that the Interim General Manager be given the delegated authority to enter into any Deed of Agreement in accordance with the adopted Policy.

If approved, the Policy will provide further assistance to developers of residential land and perhaps facilitate additional residential development in the City.

Appendices:

- 1** Draft Policy - Deferred Payment of Developer Contributions for Residential Subdivision



COUNCIL POLICY

Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo

Date 8 September 2016

Council Resolution Date

Clause Number

Responsible Officer Melissa Watkins
Position Director Environmental Services
Branch City Strategy Services
Division Environmental Services
Version 1
TRIM Reference Number ED16/101991
Review Period 12 months
Review Date June annually
Consultation 4 August 2016 to 2 September 2016

Document Revision History	
Description	Date
Notes	

POLICY

PURPOSE

The purpose of this Policy is to specify the procedure for the deferred payment of developer contributions under Section 94 of the Environmental Planning and Assessment Act, 1979 and under Section 64 of the Local Government Act, 1993 for the subdivision of land zoned residential in Dubbo only.

BACKGROUND AND RELATED LEGISLATION

The Environmental Planning and Assessment Act, 1979 (EP&A Act) recognises the need for developments to offset impacts on public infrastructure and to ensure adequate infrastructure is in place to meet the future demands of users. Based on this principle, the EP&A Act allows councils to levy developer contributions through adopted and publicly exhibited Section 94 Contribution Plans. Council has a total of three (3) Section 94 Contribution Plans in place which allow for contributions to be levied on development for augmentation of key infrastructure in Dubbo.

In addition, Section 64 of the Local Government Act, 1993 allows Council to have Developer Servicing Plans in respect of the provision of water and sewerage infrastructure. Council's Water and Sewerage Contribution Policy allows contributions to be levied for the provision of water and sewerage infrastructure in Dubbo.

This Policy was developed to allow Council to consider an alternative payment scheme for developer contributions for residential subdivision in Dubbo and primarily to provide further flexibility in the management of financial commitments for developers of residential land to ensure land continues to be delivered to the Dubbo Housing Market in a timely manner.

SCOPE

The Policy is only to be applied to residential subdivisions undertaken in Dubbo and levied contributions under the following Developer Contributions Plans:

- Section 94 Contributions Plan for Roads, Traffic Management and Car Parking;
- Section 94 Contributions Plan for Dubbo Open Space and Recreation Facilities 2016-2026;
- Section 94 Contributions Plan Urban Stormwater Drainage Headworks; and
- Section 64 Water and Sewerage Contribution Policy.

POLICY

1. PAYMENT OF CONTRIBUTIONS FOR RESIDENTIAL SUBDIVISION

Council may consider the deferred payment of developer contributions pursuant to Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Local Government Act, 1993 subject to compliance with all of the following requirements:

- The owner of the land and any mortgagee(s) of the property entering into a Deed of Agreement at no cost to **Dubbo Regional Council**.
- The Deed of Agreement being between **Dubbo Regional Council** and the owner of the land binding the land with the obligation to pay any applicable contributions.
- If the land in question is subject to a mortgage(s), **Dubbo Regional Council** entering into a Priority Agreement with the mortgagee(s) providing **Dubbo Regional Council** first priority to the payment of outstanding contributions.
- Notice of the Agreement and the rights of **Dubbo Regional Council** being registered as a caveat on the title of the land subject to the subdivision.
- The Agreement making provision for payment of the contribution at the rate applicable at the time of payment and providing a schedule for the timing of payment upon sale of the subdivided lot/s.
- The caveat being in a form that acts as a bar to the transfer of ownership of any lot within the subdivision unless **Dubbo Regional Council** has provided its written agreement to remove the caveat.
- The written agreement from **Dubbo Regional Council** removing the caveat from a subdivided lot being provided upon receipt of payment of any outstanding contributions in accordance with the terms of the Deed of Agreement.
- All costs associated with preparation of the Deed of Agreement and any other ancillary costs to **Dubbo Regional Council** being borne by the land owner/ developer.
- The terms of any Deed of Agreement specifying a period of 12 months for the outstanding contributions to be paid to **Dubbo Regional Council**.
- If following the registration of a Plan of Subdivision the land in question does not change ownership in the 12 month period immediately following the date of registration, the Deed of Agreement specifying payment of the applicable contributions to be made to **Dubbo Regional Council** at the end of the 12 month period.
- For the purposes of this Policy, a change in land ownership includes any change to a registered company name where the land is held in company ownership.
- The Deed of Agreement providing that the caveat acts as a bar to transfer ownership of any lot within the subdivision unless Council has provided its agreement to remove the Caveat.

2. APPLICATION PROCESS

- A Deed of Agreement shall be executed prior to the issue of the Construction Certificate for construction of the subdivision.
- Council is under no obligation to accept a request for the deferred payment of contributions for residential subdivision.
- Approval of any request for the deferred payment of contributions for subdivision is at the discretion of the Interim General Manager.
- Council will only consent to the removal of a caveat on the title of land if the applicable fee of 0.5% of the value of any outstanding contribution is payed prior to the removal of the caveat.

3. REVIEW OF POLICY

An operational review of the Policy shall be undertaken in June annually. Following this review, Council reserves the right to cancel or amend the Policy.

RESPONSIBILITIES

The Director Environmental Services is responsible for enforcing and enacting this Policy.