

Deferred Payment of Developer Contributions for Residential Subdivision in Dubbo

Date	8 September 2016
Council Resolution Date	26 September 2016
Clause Number	PDC16/1
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
Version 1 Commencement Date	6 October 2016
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 Contributions Plans. Council has a total of three (3) Section 94 Contributions 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 also 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 shall be 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 will provide 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 to remove 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 shall be borne by the land owner/ developer.
- The terms of any Deed of Agreement shall specify 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 paid 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.