

9 September 2009

Ms Lindy Hyam
General Manager
Newcastle City Council
PO Box 489
Newcastle NSW 2300

By email: mail@ncc.nsw.gov.au

Attention: Shannon Turkington

Dear Ms Hyam,

Re: Newcastle City Council Draft Section 94A Contributions Plan 2009

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with both government and the community.

We have grave concerns with the use of section 94A plans to gradually increase taxes imposed on new development. Furthermore the Urban Taskforce must record its alarm with the disclosure by Council that the existing plan "will not meet legislative requirements outlined in the Environmental Planning and Assessment Act 1979".¹ This means that **contributions obtained previously may have been collected unlawfully and if this is the case, such contributions must be refunded immediately.** Our concerns are set out below.

1. Context

Reduced home affordability in Australia is a function of strong demand and limited supply.² To make housing more affordable, we need to get more homes built and onto the market. Little or no development activity means no urban renewal, which, if allowed to continue, will mean local centres, including the Newcastle City Centre will go into decline. There will be a high social and economic cost if this approach is to continue.

In addition to the above, we find ourselves in the grips of a global financial crisis. The Commonwealth and State Governments are putting great effort into "stimulating" our economy. It is in this delicate economic climate that Newcastle Council now has the opportunity to drop its **three per cent tax on development**. Council must be mindful of the impact that increases in developer contributions will have on development activity and affordability.

If Council is concerned with supporting its local economy and encouraging urban renewal, then it must look closely at the cumulative total of developer fees and charges, not just the section 94A contribution in isolation. Council must recognise that if it makes development too expensive, developers will simply look for an alternative market. Without an appreciable increase in redevelopment, housing affordability will continue to be a challenge and local economic growth will be severely restricted.

2. End-users of developed land bear the costs of levies

Those who argue for high development levies are mistaken if they believe that a developer ultimately bears the costs of the charges. It is the land buyer, homebuyer or lessee of premises who must ultimately pay. This is because modern capital is mobile. It flows to wherever it gets

¹ CCE – 4/08/09 – Review of Council's Section 94A Plan.

² <http://www.newcastle.nsw.gov.au/__data/assets/pdf_file/0005/73616/CCE_10.pdf>, accessed 8/9/2009.

² Commonwealth of Australia (2008) A good house is hard to find: Housing affordability in Australia, June 2008.

the best return. A local developer will not be able to secure equity for a development unless the rate of return that is available for investments of a similar risk profile in other local government areas (or other states or countries) can be offered.

In order to ensure that a market rate of return is achieved, a developer will either reduce the amount of money paid for the undeveloped land/redevelopment site, or increase the price paid by the ultimate buyer of the developed property. However, often the buyer cannot afford an increase in land price due to council levies because there is a ceiling on the price that buyers are able to pay, i.e. their borrowing capacity (if residential) or the income stream they anticipate from their business (if they're retail/commercial). The maximum amount that buyers are able to borrow is based on their income and interest rates. Without increases in income or sustained long-term reductions in interest rates, buyers are unable to pay more for new homes or business premises. As a result, any project, which cannot be delivered at a price buyers currently can afford, simply doesn't get built.

Council levies, if not properly considered, will without doubt, stifle development. This three percent levy means that Newcastle will not experience urban renewal and development at a rate observed in comparable city centres.

3. A three per cent levy on city centre development is punitive

The Urban Taskforce has made numerous submissions to Government on the importance of ensuring development fees and charges are reasonable. In this regard, we strongly argue for an element of market reality when determining development charges, particularly when reviewing a section 94A contributions plan.

We are of the belief that market realities have not been properly considered when amending the Newcastle Section 94A Contributions Plan. Based on the material exhibited and officer reports to Council, it seems that the focus has been on the likely financial implications of a section 94A contributions scheme on Council's coffers and not the burden such a levy on development may have on project feasibility.

For instance, the question has not been asked if a three percent levy on town centre development is still appropriate in these difficult financial times. Furthermore, the Council does not engage in the debate surrounding the impact of development levies on development activity.

The financial impact to Council, if a levy is reduced, is not simply a reduction in Council's revenue stream. A reduction in a levy may actually give rise to an increase in revenue for Council. This is because a reduced levy may make more projects feasible, which means more development can proceed, which in turn generates more revenue to Council. Furthermore, more development certainly acts as an economic stimulant that brings many flow-on effects to the local economy.

There is no doubt that there is an argument for a *reasonable* contribution from developers. **A reasonable contribution has been set by legislation at no more than 1 per cent of the development cost.** In times of recession, what government, including Council should be doing is looking at ways to stimulate development, not opportunities to maintain excessive taxes on development. Opportunities to reduce charges should be examined. **Reducing charges will increase supply of developed land coming onto the market.** An increase in supply must result in an overall reduction in cost.³

4. There is no proper and transparent justification for levies

In any event, the Urban Taskforce is concerned with the lack of information provided in the exhibited draft contributions plan. A comprehensive review of the schedule of works has not been completed and the existing works schedules are little more than wish lists with dollars assigned. Council cannot in all honesty expect the community to accept significant project

³ BIS Shrapnel (2008) *Is there a housing crisis?* Summary of talk by Frank Gelber at the Melbourne Institute and the Australian 2008 Economic & Social Outlook Conference, 'New Agenda for Prosperity' 27 March 2008.

estimates without any detail to justify the cost. Loosely worded generalisations are not sufficient. Council must exhibit summary details of improvements upon which cost estimates were developed. Without appropriate project specification and justification Council is not being transparent and the community is unable to hold Council accountable for project quality or delivery.

The Urban Taskforce is not alone in expressing concerns with local council cost shifting. Evidence and submissions presented to the Senate Select Committee on Housing Affordability in Australia support our concerns. For example, evidence has been put on the record that infrastructure costs are being transferred to the users of new development; local authorities may have a tendency to "gold-plate" excessively expensive infrastructure. In his evidence to the Committee, Professor Troy stated that "we are very generous about what we do with road supplies.....one of the reasons that we do this is that now we have the developer paying for it...."⁴

In summary:

- We oppose the continuation of a levy of 3 per cent in the Newcastle town centre (or any levy that exceeds the legislated benchmark of 1 per cent).
- There is insufficient information provided in the draft plan to offer any reasonable justification for the continuation of town centre levies in excess of the benchmark.

The Urban Taskforce implores Council to carefully consider the contents of this correspondence and apply an element of market reality when developing a section 94A contribution plan. Furthermore, Council should place on exhibition at least a completed draft plan that includes summary project details with sufficient information to justify project costs stated in its draft plan.

Thank you for providing us with the opportunity to offer our comments and should you require any further clarification of the content of this correspondence, please feel free to contact me.

Yours sincerely

Urban Taskforce Australia



Aaron Gadiel
Chief Executive Officer

⁴ Commonwealth of Australia (2008) *A good house is hard to find: Housing affordability in Australia*, June 2008. pp. 110