

SYDNEY COASTAL COUNCILS GROUP Inc.
C/- City of Sydney Council
Level 12, 456 Kent Street
GPO Box 1591, SYDNEY NSW 2001

Phone: (02) 9246 7791
Facsimile: (02) 9265 9660
Email: info@sydneycoastalcouncils.com.au
Internet: www.sydneycoastalcouncils.com.au
ABN: 39 638 876 538



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GW006-04

Ms Gabrielle Kibble
Chairperson
Section 94 Contributions and Development Levies Taskforce

Att: Catherine Donnellan
Strategic Projects and Policy Co-ordination Unit
Department of Infrastructure, Planning and Natural Resources
23-33 Bridge St Sydney NSW 2000
GPO Box 39 Sydney NSW 2001

Dear Ms Kibble,

Re: Submission on the Section 94 Contributions and Development Levies Taskforce

Thank you for the invitation to provide comment and input to the Section 94 Contributions and Development Levies Taskforce. **Information on the SCCG¹ and its activities is provided in Appendix 1.**

1. INTRODUCTION

The following submission will not specifically respond the Task Force 'Terms of Reference' but provides useful information on Local Government issues, concerns, possible solutions, and general feedback and potential directions for improvement. The SCCG has been investigating issues and potential solutions to assist its member councils in considerations for Section 94 Contributions for some time. Please find attached some useful reports that have been produced by the SCCG Developer Contributions Working Group (DCWG) that should assist the taskforce with their deliberations

Attachments:

- SCCG, 2002, *SCCG Developer Contributions Working Group – Draft Scoping Paper – For Discussion*
- SCCG, 2002, *SCCG Developer Contributions Working Group – Draft Feedback Report*
- SCCG, 2002, *SCCG Developer Contributions Survey Report*
- SCCG, 2003, *Section 94 Contribution System – Briefing Paper.*
- SCCG Correspondence (LGSA, DUAP)

2. BACKGROUND

In January 2002 the Sydney Coastal Council Group's (SCCG) Annual Technical Committee Survey identified the Section 94 Contribution System as an issue/project that Technical Committee Representatives would like to see the SCCG give attention too.

A scoping report was prepared for the Technical Committee who agreed that the project should proceed. A Developer Contributions Survey was distributed to SCCG representatives to get an initial overview of the issues to be addressed. As a result of the Developer Contributions Survey a SCCG

Developer Contributions Working Group (DCWG) was convened. Its first meeting was held on 13 June 2002. Participants consisted of Section 94 Planners or Strategic Planners from SCCG Member Councils identified in the preliminary survey. (Survey report is attached)

Issues and Needs of the Section 94 Contribution System

At the first SCCG Developer Contributions Working Group (DCWG) meeting a round table review of participants identified priority needs and issues of concern for the s.94 Contribution System that they considered the DCWG should address. These include:

- High-density urban council area implications
- Models (CPs, Schedule of Works, Contribution Formulas, and Nexus')
- Joint Projects / Cross Boundary Considerations
- Schedule of works
- Unspent Contributions and Supplement Funds
- Consent Conditions
- Tools for managing managers
- Resources

The second meeting was held on the 1 August 2002. At the second DCWG meeting external agency representatives from: PlanningNSW, NSW Environmental Protection Authority (EPA), and the Department of Land and Water Conservation (DLWC), presented and discussed recent, current and potential activities of their respective agencies relating to the s.94 Contribution System and local government. *(Please note that minutes from these meetings are available on request).*

The above issues and needs of the DCWG were again discussed in light of the external agencies activities. It was resolved that the SCCG Secretariat would consider findings to date and prepare a Scoping Paper for the further consideration of the DCWG.

3. BRIEF OVERVIEW OF SCCG INVESTIGATIONS AND FINDINGS

The following section provides a summary of SCCG investigations and findings. The sections provides information of the four main activities undertaken (Preliminary Survey, Scoping Paper, Feedback Report and current SCCG Action status).

3.1 SCCG Developer Contributions Survey (Report attached)

The SCCG undertook to identify avenues to address issues aiming to increase capacity of member councils to utilise community/developer contributions and secure sustainable funding sources to achieve environmental outcomes. The Contributions Plan Survey was undertaken to attempt to establish the status of Section 94 Contributions Plans within SCCG member councils to form a basis on which to develop the key activities of the DCWG.

The survey was produced by the Secretariat and distributed via the SCCG Technical Committee Representatives. Representatives were asked to forward the survey to Section 94 Planning Officers within their respective councils or in the case of council having no designated Section 94 Planner representatives were requested to forward the survey to the most appropriate planner within council with responsibility for or contact with Contributions Plans.

The survey asked for and reported on issues including:

- The effectiveness of Contribution Plans in;
 - Securing general funding
 - Securing stormwater/drainage funding
 - Application to developments in general
 - Avoiding and/or contesting legal challenges
- Resulting contributions for stormwater related, improvement of local biodiversity or natural resource management activities.
- Details of common development types levied and frequencies.
- Legal challenges and/or contest for Contribution Plans.

- Comments on the positives and benefits of Contribution plans.
- Suggestions for further action and additional comments.

The results of the survey highlighted the diverse nature of Section 94 contribution planning within the Sydney coastal region. The development issues facing member councils and the facilities required to service new developments or additions/changes to existing developments vary considerably between councils. As a result of this diverse nature of development issues the Contribution Plans are understandably themselves quite diverse in content.

Given the diverse nature of the plans it is no surprise that the effectiveness of the plans also appears quite varied. The existence of specific Section 94 Planning Officers at approximately only half of the member councils indicates that some councils place more emphasis on contribution planning than others. This also indicates contribution planning is at varying stages of development and implementation amongst member councils.

An overall feeling of discontent with contribution plans comes through the survey results. Dissatisfaction with plans appears to be prevalent as indicated by the emphasis on the negatives of plans and the number of comments and suggestions on difficulties encountered in contribution planning. In contrast to this however, most respondents did indicate that their plans were effective in securing general funding, in application to developments in general and in avoiding and/or contesting legal challenges. Further facilitated discussion between planners may allow clarification of any discontent and of issues requiring attention.

The plans appear to be generally lacking in regards to securing funding for environmental (including stormwater management) related activities, evident through respondent's comments and opinions of their plans. From the results of the survey it appears that the majority of councils are ineffective in utilising Contribution Plans to recover stormwater infrastructure costs incurred in servicing new developments or additions/changes to existing developments. Further investigation into the difficulties and limitations to utilising Contribution Plans for environmental management is required.

• **Recommendations for the Survey**

In response to the survey results it was recommended that further discussions be undertaken with and between Council's planners to establish an appropriate approach for addressing issues and meeting council's needs. Discussion between planners was to enable the identification of common issues and also provide an opportunity to discuss and share solutions to these issues.

Discussion between planners addressed the preliminary issues identified in the survey and facilitated the:

- Identification of resources and tools to assist development of Contribution Plans.
- Identification of necessary investigations into appropriate aspects of contribution planning.
- Identification of needs for assistance from external agencies to be sought.
- Consideration of alternative approaches to developer contributions.
- Sharing of knowledge, skills and resources across councils.

3.2 SCCG Developer Contributions Working Group – Draft Scoping Paper – for discussion

The Draft Scoping Paper outlined issues to be addressed by the Sydney Coastal Council Group's Developer Contributions Working Group (DCWG) and attempted to identify appropriate responses to these issues. The purpose is to prompt discussion and feedback by stakeholders on the proposed activities with a view to them being progressed.

The content of the Draft Scoping Paper was directly related to discussions of the DCWG at preceding meetings. No parameters were set as such, as the paper attempted to capture all that was discussed in a format to facilitate further discussion.

Issues addressed in the Draft Scoping Paper include:

- High-density urban council area implications
- Planning Models (CPs, Schedule of Works, Contribution Formulas, and Nexus')

- Joint Projects / Cross Boundary Considerations
- Schedule of works
- Unspent Contributions
- Conditions of Consent Implications
- Tools for managing managers
- Resources

The Paper reviews the above issues providing an introduction for each issue, a discussion and proposing actions to be considered for implementation. Stakeholders were asked to provide comment on this paper including the needs, practicality and usefulness of pursuing the proposed actions. The SCCG collated these responses to produce a Feedback Report for the Working Group's consideration (below).

3.3 SCCG Developer Contributions Working Group – Draft Feedback Report

The purpose of the Draft Scoping Paper Feedback Report is to present the feedback on the Draft Scoping Paper to enable discussion on future activities of the DCWG and further discussion of the identified issues.

From the compilation of feedback on the draft scoping paper it was found that there is a need for increasing the capacity of councils to effectively levy for s.94 Developer Contributions (within s.94's limitations) and that the DCWG should continue to pursue this capacity building. A summary of the issues is provided below.

- **Minimal funding from developer contributions**

The feedback indicated agreement amongst stakeholders that high-density Council areas gain little benefit from Section 94 Contributions. It was suggested that the consideration of apportionment means that the developer contribution is minimal, with the major cost for infrastructure falling to Council. Councils' reported that they simply do not have the funds to make up the balance required to provide the infrastructure. It was even suggested that there was therefore little point in preparing a Section 94 plan.

It was suggested that councils with high-density urban areas need alternate funding sources, because Section 94 plans do not provide the solution to provision of infrastructure. This need for alternative funding sources appears to be generally accepted by DCWG members providing feedback. Therefore outcomes of the EPA's Sustainable Funding Research is still being eagerly anticipated (apparently completed in 2003). It is worth noting however that this research apparently relates to funding of stormwater related activities only. Section 94 will still be required to resource other measures/facilities required by new and or redevelopments.

- **Additional funding needs**

It is worth noting again (from the Draft Scoping Paper) that two different issues facing the DCWG's purpose and activities are evident. Firstly, there is the need for increasing the capacity of councils to effectively levy for s.94 Developer Contributions (within s.94's limitations). The second issue is that councils require additional funding, outside of s.94, to conduct necessary activities (because of s.94's limitations).

The issue of alternative funding sources is distinctly different to improving the capacity of Member Councils to effectively utilise the s.94 Contribution System and needs to be kept separate. It was suggested that local government should pursue alternative funding options for its 'necessary activities', relying on s94 only to raise funds to resource measures required by new and or redevelopments. The SCCG notes the concerns raised by the DCWG that they may not be the most suitable group to pursue broader funding options available to Local Government.

- **Feedback**

The feedback on the Draft Scoping Paper has been collated into discussions to focus on key potential action areas. Therefore further discussion of issues related to the feedback is dealt with under the refined actions proposed by this report for dealing with them.

As noted and based on the feedback on the Draft Scoping paper it is evident that there is a need for increasing the capacity of councils to effectively levy for s.94 Developer Contributions (within s.94's limitations) and that the DCWG should continue to pursue this capacity building. To do this it was proposed that the DCWG undertake the following key actions and sub actions:

1. Develop s.94 Contribution System capacity building tools by conducting a workshop(s) to share experiences, knowledge and resources for educating councillors and managers on the s.94 Contribution System
 - 1.1. DCWG members participate in the workshop/ meetings.
 - 1.2. DCWG members consider their contribution to the workshop/meetings.
 - 1.3. PlanningNSW be heavily involved in the workshop.
2. Develop and prepare a Developer Contributions Resource Package composed of a reference library for, and provision of available copies of, resources related to the s.94 Contribution System.
 - 2.1. DCWG members provide comment and/or agree on the proposed content of the resource package,
 - 2.2. DCWG members identify and contribute references and materials to the resource package.
3. Encourage and support individual councils to actively pursue the development of Draft Joint Contributions Plans and follow and actively support these through discussion and advice in the preparation of such plans.
 - 3.1. DCWG members actively pursue the preparation of Draft Joint Contribution Plans,
 - 3.2. DCWG members participate in discussion and provide advice on the preparation of Draft Joint Contribution Plans.
4. Continue to facilitate discussion and consideration of alternative and/or additional funding sources.
 - 4.1. DCWG members consider and provide comment on alternative and/or additional funding sources to the s.94 Contribution System

4. CURRENT STATUS OF SCCG SECTION 94 ACTIVITIES

Following assessment of the feedback report, the DCWG resolved to pursue 5 main activities in relation to this important issue. Details and status of these actions are provided below:

- **Action 1.** Develop a briefing paper, one to two pages, on the s.94 Contribution System as it pertains to the high density coastal Sydney LGAs, for capacity building of Councillors.

Status: Completed

A Briefing paper has been produced and circulated to all SCCG Councillors and senior managers. (Attached). The Briefing paper was produced to address confusion over expectations and misunderstandings of the Section 94 Contribution system amongst SCCG member councils.

- **Action 2.** DCWG members forward their issues/ elements of s.94 they would like to see addressed in a potential s.94 Contribution System issues workshop.

Status:

Limited progress has been achieved with this action. There has been limited response from the DCWG on issues to be addressed in the proposed forum. This is due to the limited perceived solutions to many of the issues already raised and some what addressed in the Scoping Paper and the Feedback Report. It is suggested that the Task Force consider facilitating such a forum to review the inquiry findings and outcomes and to scope some of the solutions anticipated to be proposed in the final report to Government.

Action 3. The DCWG write to Sue Holliday requesting an update on legislative developments concerning the s.94 Contribution System, including joint Contribution Plans.

Status:

A letter was forwarded to Sue Holiday (former DG of PlanningNSW). The letter requested a detailed update on the draft Bill as well as specific responses to the DUAP chaired Section 94 Review Committee's recommendations in the year 2000. No response was received by the SCCG in relation to this correspondence (attached).

Action 4. The DCWG approach the Local Government and Shires Associations (LGSA) about a partnership for the development of a s.94 Resource database.

Status:

A letter and a S.94 resource database proposal has been produced, and circulated to the DCWG and the LGSA, for initiating a potential partnership approach with LGSA. The database is envisaged to be basically a bibliography of known resources, recorded in the following categories: Contributions Plans; Guides/Manuals; Papers; case Studies; and capacity Building. LGSA has been approached as a potential partner to enable the database to be hosted on their web site for state wide application. No response has been received by the SCCG in relation to this correspondence (correspondence attached).

Action 5. The DCWG prepare a review of current developments for alternative / additional funding sources available to local government.

Status:

Following a meeting with SSROC and NSROC, the SCCG is awaiting response for progressing the proposal by NSROC for the combined ROCs to engage a post graduate student to conduct this study. The alternative is for the SCCG to utilise its partnership MOU with the UNSW Institute of Environmental Studies to engage a masters student conduct this review. It is suggested that the Task Force consider this a potential action for the NSW Government.

5. CONCLUSION

I trust that the background, comments, and information provided in this submission and particularly the attachments will receive appropriate attention when finalising the task force report and will assist to ensure better outcomes for sustainable funding mechanisms for local government. If you wish to clarify any matter in the submission or require further information, please contact me directly on 9398 7537 or geoff@sydneycoastalcouncils.com.au

Yours sincerely,

(As signed)

Geoff Withycombe
Executive Officer

¹ **Sydney Coastal Councils Group Inc.** The SCCG consists of 16 member councils with sea and harbour frontages in Sydney, including, Botany, Hornsby, Leichhardt, Manly, Mosman, North Sydney, Pittwater, Randwick, Rockdale, South Sydney, Sutherland, Sydney, Warringah, Waverley, Willoughby and Woollahra. Collectively we represent over 1.3 million Sydneysiders. The Group is concerned with the promotion of cooperation and coordination to achieve the sustainable management of the urban coastal environment.