

5 January 2018

Director, Legislative Updates
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

Review of Environmental Planning and Assessment Regulation 2000

I refer to my letters dated 24 November and 19 December 2017 regarding Council's submission on the *Environmental Planning & Assessment Regulations Review Issues Paper*.

Please note that an administrative error has been identified in the Group Manager's Report No. PL 62/17 of 13 December 2017 concerning the review of the *Environmental Planning and Assessment Regulation 2000*.

The error is in section 4(d) on page 18 of the report (page 115 of the 13 December 2017 Business Paper) and relates to Council's comments and recommendations regarding Fees and Charges associated with planning compliance matters handled by councils. Instead of a compliance levy of "0.0025%", the figure should read "0.25% of the Capital Investment Value (CIV)...". The recommendation under section 4(d) of the report should therefore read: "A compliance levy of 0.25% of the CIV of a proposed development should be charged on each development application with a minimum levy of \$75 on all applications."

Please find attached a copy of the relevant page of the abovementioned report marked up to identify the error. It would be appreciated if you would include this correspondence with Council's submission.

Should you require clarification on the above matter, please contact me on 9847 6780.

Yours faithfully



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Acting Group Manager
Planning Division

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- development that does not comply with a consent; and
- building disputes.

The cost of councils providing officers to investigate and resolve these types of issues is significant and cannot be recovered by issuing cost compliance notices, fines or court action. To ensure that the regulatory regime that follows the approval process is properly monitored, it is appropriate that a compliance levy of 0.0025% of the Capital Investment Value (CIV) of a proposed development be charged on each development application with a minimum levy of \$75 on all applications. This fee would generally cover full cost recovery for council compliance work.

The charging of a levy is the most cost effective way of ensuring strong regulation is achieved. Issuing cost compliance notices, fines and initiating court action to recover costs involves additional administration resources, which cannot be recovered.

Recommend: A compliance levy of 0.0025% of the CIV of a proposed development should be charged on each development application with a minimum levy of \$75 on all applications.

- e) The regulated fees for councils lodging, registering and assessing Section 149 Building Certificates do not provide a full cost recovery for councils undertaking this assessment. The fees should be established on a full cost recovery basis and allow for lodging the application, reviewing past consents and undertaking a site inspection of the subject building. Section 149 Building Certificates are binding legal documents and therefore, require a high level of scrutiny before they are issued.

Recommend: Any fees prescribed in the *EP&A Regulation* for councils, lodging, registering and assessing Section 149 Building Certificates should be based on full cost recovery.

- f) The *EP&A Regulation* prescribes fees for the issue of Section 149 Planning Certificates. The form and content of Section 149(2) Certificates is set by the *EP&A Regulation*. Council determines the form and content of Section 149(5) Certificates based on what it considers a prospective purchaser of land would benefit from knowing. The fee for Section 149(2) Certificates is \$53 and the fee for Section 149(5) Certificates is \$80. These fees have been in place for some time without increase.

Given the level of information now required to be provided on both types of certificates, their legal status and the cost liability ramifications of issuing incorrect certificates, it does not properly reflect the time invested by Council staff to setup and maintain its various information and on-line systems to be able to produce Section 149 Planning Certificates accurately and efficiently.

Council's systems require regular maintenance to ensure land and property descriptions are updated upon notification of subdivision registrations as well as updating of planning affectations associated with the release of new planning legislation.

Recommend: Fees for 149(2) and 149(5) Certificates should be increased under the *EP&A Regulation* to better reflect the complexity of information now required to be provided on certificates and the responsibility of managing information and on-line systems.

5. Development Contributions

The *EP&A Act* establishes the framework for development contributions being Section 94 Contributions, Section 94A levies, voluntary planning agreements, affordable housing contributions and special infrastructure contributions (SICs). The *EP&A Regulation* includes a range of additional