

DA-2010/93 – Supplementary information – Section 94A levy exemption

The application is considered to be exempt from a Section 94A levy pursuant to clause 9(m) of Wollongong Section 94A Development Contributions Plan (2009), subject to a submission from the applicant outlining the grounds for the exemption.

In the report tabled to the JRPP it was recommended that a Section 94A levy be included on the consent as the applicant had yet to provide such a submission.

The subject condition was however omitted from the final copy of conditions that the JRPP received. Notwithstanding this, an appropriate submission has been subsequently received from the applicant in this regard. Council's Strategic officer has approved the request for exemption and a section 94A levy is therefore not applicable and this will be reflected in the consent.

A copy of the applicant's submission, the relevant pages from the Contributions Plan, and Council's Strategic Officer's comment are attached.

FILE NOTE

Development Assessment

Application No	DA-2010/93
Location	Lot 1 Five Islands Road, PORT KEMBLA NSW 2505 Lot 1 DP 606434
Description	Remove and replace BOS Flare Stack
Date	17 March 2010
Subject	Strategic Section 94A Exemption
Notes	<p>In accordance with the Wollongong City Council Section 94A Development Contributions Plan 2009, Clause 9((m)) Council may allow a partial or full exemption where it is an <i>“application for an industrial, retail or commercial development, where there is no increase in floor space within an existing building”</i>.</p> <p>Provided that the assessing officer is satisfied that there is no increase in floor space the demolition and replacement of the BOS Flare Stack may be granted a full exemption from the Section 94A Contributions Plan levy.</p>

Issue of this document on behalf of Council has been authorised by:

Edith Castro
Strategic Project Officer
Wollongong City Council
Direct Line (02) 4227 7616



16 March 2010

General Manager
Wollongong City Council
Locked Bag 8821
SOUTH COAST MAIL CENTRE
NSW 2521

BlueScope Steel Port Kembla
ASN 15 001 015 625
Pine Island Road
Port Kembla 2505
Australia
Postal Address
PO Box 1854
Telephone +61 4275 1321
Facsimile +61 4275 5889
www.bluescopesteel.com

APPLICATION FOR DEVELOPMENT

Removal and Replace BOS Flare Stack

BlueScope Steel, Port Kembla Steelworks

Request for exemption from Section 94 Contribution Plan

Dear Sir

We request an exemption from Section 94 Contribution Plan for the above project as per section 9 (m) under Section 94E of the *Environmental Planning and Assessment Act 1979*.

The exemption clause is:

m. An application for an industrial, retail or commercial development, where there is no increase in floor space within an existing building.

The new stack occupies the same floor space as the existing stack.

Yours faithfully

A handwritten signature in black ink, appearing to read "P. Smith".

Philip F. Smith

Vice President Capital Development & Engineering

Copy to: President Technology & Environment, Manager Environment, D. De Santi, Bill Rhodes, Susannah Power, Alan O'Brien

Contact Officer: David De Santi tel: 02 4275 7149, fax: 02 4275 3127, email: david.de santi@bluescopesteel.com

BlueScope is a trademark of BlueScope Steel Limited

P

- c. for the purpose of reducing the consumption of mains-supplied potable water, or reducing the energy consumption of a building (10/11/06);
- d. for the sole purpose of adaptive re-use of an item of environmental heritage (note: the term "item" and "environmental heritage" have the same meaning as in the *Heritage Act 1977*) (10/11/06);
- e. other than the subdivision of land, where a condition under section 94 of the Act has been imposed under a previous development consent relating to the subdivision of the land on which the development is proposed to be carried out (10/11/06);
- f. Seniors living development under SERP Seniors Housing 2004 by a Social Housing provider (14/9/07)
- g. Components of school development that is a Building Education Revolution (BER) project (9/9/09).

In addition, Council may allow for the following exemptions (partial or full):

- h. An application for an attached dual occupancy development with a floor area less than 55m² as stipulated in the Complying Development - Development Control Plan No.89/11;
- i. An application by or on behalf of the Council for community infrastructure, such as libraries, community facilities, child care facilities, recreational areas, recreational facilities or car parks.
- j. An application for or on behalf of the NSW Government for public infrastructure, such as hospitals, police stations, fire stations; education facilities and public transport infrastructure.
- k. An application for privately funded community infrastructure, such as education facilities, universities, and private hospitals.
- l. Any other development for which Council considers an exemption is warranted, where the decision is made by formal ratification of the Council at a public Council meeting.
- m. An application for an industrial, retail or commercial development, where there is no increase in floor space within an existing building.
- n. An application for the continued operation of a coal mine, where rail transport is used for the transportation of coal.
- o. An application for a place of public worship.
- p. An application for demolition (where there is no replacement building or development).

In the case of points i to m. above, for such claims to be considered, any such development will need to include a comprehensive submission arguing the case for exemption and including details of the mechanism ensuring that such development will remain in the form proposed in the future, or how the development will incorporate the maintenance of the item of heritage significance where relevant.

A comprehensive submission is not required for points a to h from the above paragraph.

10. Complying Development Certificates and the obligations of accredited certifiers

Development applications for Complying Development are also subject to the provisions of this plan, and the payment of a Section 94A contribution. The Complying Development Certificate is to include a condition that requires the payment of a Section 94A contribution (in accordance with the requirements of clauses 7 to 9 above).

As the construction certificate is issued concurrently, payment is to be made to Council within 7 days of the date of the Complying Development Certificate.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in accordance with clause 142(2) of the *EP&A Regulation*. Failure to follow this procedure may render such a certificate invalid.

11. Construction certificates and the obligations of accredited certifiers

In accordance with Section 94EC of the Environmental Planning and Assessment Act and clause 146 of the *EP&A Regulation 2000*, a certifying authority must not issue a construction certificate for building work or subdivision work under a development consent unless it has verified that each condition requiring the payment of levies has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that levies have been fully paid and copies of such receipts must be included with copies of the certified plans provided to the council in