

7 March 2018

Our Ref: N-17065

Your Ref: DA2016/00654.03

Mr Murray Blackburn-Smith
Development and Building Manager
Newcastle City Council
282 King Street
Newcastle, NSW 2300

ATTENTION: Melissa Thomas

Dear Melissa,

RE: S96(2) APPLICATION TO MODIFY DEVELOPMENT CONSENT DA2016/00654 - SENIORS HOUSING DEVELOPMENT - 510 (FORMERLY 500) KING STREET, NEWCASTLE WEST

On behalf of RSL LifeCare, CPSD submitted an application in December last year to modify the existing development consent at the above address. This application was submitted to Council to consider a number of building alterations and is currently under assessment.

The original application was lodged and approved in 2016 and included a condition requiring a development contribution to be paid to Council pursuant to Section 94A of the Act. At that time, the site owner / operator was not confirmed and the City Centre levy of 2% was applied to whole building.

The operator has since been confirmed as RSL LifeCare who are a Registered Charity / Not-for-profit organisation. In accordance with the Ministerial Direction under Section 94E dated 14th September 2007, the 94A contributions do not apply to the Seniors Housing component of this development and we therefore seek to remove this aspect and modify the condition within the current application.

CPSD therefore formerly request that condition 3 of development consent DA2016/00654 be modified and re-calculated to consider the ground floor commercial aspect of this development only. With reference to the valuation letter prepared by Muller Partnership Quantity Surveyors, the Capital Investment Value of the works that are to be levied equate to \$400,000 + GST.

Condition 3 should therefore be modified from the current amount of \$880,053 to \$8,000.

We have also attached a copy of email correspondence between Council's Contributions Officer confirming this approach, advice from Roberts Day and a letter from the owners confirming their acceptance to lodge this request on their behalf.

Should you require any further clarification or information in respect to this application, please contact the undersigned on 4925 3286.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Speek', with a large circular flourish on the left side.

Chris Speek

Associate Director

18 January 2018

RSL LifeCare
(ABN 43 000 048 957)
C/- TSA Management
Suite C 202, 19 Honeysuckle Drive
NEWCASTLE NSW 2300

ATTENTION: TONY KIERNAN

Dear Tony,

RE: PROPOSED RACF/ILU DEVELOPMENT – COMMERCIAL COMPONENT

Based on my review of the originally provided 'Schedule 6: Part B – Cost Summary Report' dated 18th May 2016, the construction costs for the commercial component of the proposed Birdwood Park RACF/ILU development totals approx. **\$440,000 incl. GST** based on the following assumptions:-

- The overall Construction budget is \$44,002,639 *Incl. GST* as per the original submission dated 18th May 2016;
- The 'Commercial Component' of the development has been deemed to be the approx. 200m² nominated 'Retail Space' and 'Porch 2', with the nominated Kitchen, Scullery, Cool Room, Freezer and Dry Store being for the sole use of the above RACF facility only;
- None of the proposed 90 car parking spaces have been provided for the Retail Space;
- The approx. 200m² 'Commercial Component' of the development represents approx. 1% of the total 21,453m² GFA nominated as part of the original submission;

Should you have any queries or require any further information please do not hesitate to contact the undersigned.

Yours faithfully

MULLER PARTNERSHIP



CAMERON BEARD – Director

CB:CB 17089 RSL Birdwood Park

Chris Speek

Subject: FW: RSL LifeCare DA 2016/00654: requested for reimbursed of S94 contributions

From: Shannon Turkington [<mailto:sturkington@ncc.nsw.gov.au>]
Sent: Wednesday, 31 January 2018 4:01 PM
To: Tony Kiernan <tkiernan@tsamanagement.com.au>
Cc: Priscilla Emmett <pemmett@ncc.nsw.gov.au>
Subject: RE: RSL LifeCare DA 2016/00654: requested for reimbursed of S94 contributions

Hi Tony

Can you please lodge with Council an application to modify your development consent, so the condition relating to development contributions can be modified. The application form can be found using the following link:

<http://www.newcastle.nsw.gov.au/getattachment/Council/Forms-Publications/Forms/D-B-Application-to-Modify-a-Development-Consent/DB-Form-DA-Modification-Application.pdf.aspx?lang=en-AU&ext=.pdf>

I have spoken to Priscilla Emmet, Council's Development Assessment Team Coordinator so she is aware of your request.

Thank you

Shannon Turkington | Acting Urban Planning Coordinator
Strategic Planning | Planning and Regulatory
Newcastle City Council
Phone: +61 2 4974 2274 | **Fax:** +61 2 4974 2222
Email: sturkington@ncc.nsw.gov.au
Web: www.newcastle.nsw.gov.au
Our Corporate Values: Cooperation | Respect | Excellence | Wellbeing

From: Tony Kiernan [<mailto:tkiernan@tsamanagement.com.au>]
Sent: Thursday, 18 January 2018 3:43 PM
To: Shannon Turkington
Subject: RE: RSL LifeCare DA 2016/00654: requested for reimbursed of S94 contributions

Hi Shannon,
Further to our phone call last week please find attached letter from the project quantity survey confirming the Construction Costs for the Commercial Component of the development.

As discussed the 'commercial' component only relates to the Ground Floor Retail space.

Trusting this is acceptable, let me know if you require any further information.

Regards,

TONY KIERNAN
Senior Project Manager



Suite C202, 19 Honeysuckle Drive | Newcastle NSW 2300
T: 02 9276 1400 | **M:** 0432 525 100

From: Tony Kiernan [<mailto:tkiernan@tsamanagement.com.au>]
Sent: Thursday, 7 December 2017 10:31 AM
To: Shannon Turkington
Cc: Paul Muir
Subject: RSL LifeCare DA 2016/00654: requested for reimbursed of S94 contributions

Hi Shannon thanks for your time this morning,
As discussed TSA are project managers for the new RSL LifeCare vertical aged care building being constructed at 500 Little King St. approved under DA 2016/00654 (attached).

This request is to confirm the eligibility and process for RSL Lifecare to be reimbursed for S94 contributions of \$880,053 already paid to council.

In support of this request the following is included:

1. Refer below advice received in July 2016 from RobertsDay planning consultant re RSL LifeCare being a Registered Charity / Not-for-profit organisation under the Australian Government / Australian Charities and Not-for-profits Commission.
2. Confirmation of RSL LifeCare registration with the Australian Charities and Not-for-profits Commission (attached)
3. The Ministerial Direction (attached) seeking to uniformly regularise an approach to section 94 contributions levies for seniors housing *by social housing providers*.

Can you please review and give me a call to discuss how to progress this reimbursement.

Regards,

TONY KIERNAN

Senior Project Manager



Suite C202, 19 Honeysuckle Drive | Newcastle NSW 2300

T: 02 9276 1400 | M: 0432 525 100

W: tsamanagement.com.au | E: tkiernan@tsamanagement.com.au

Visit our website for up to date
news and project information

smart people **smarter** solutions

Sent: Friday, 1 July 2016 12:06 PM
To:

Good morning team,

RE: RSL LifeCare Section 94 Contributions

RSL LifeCare is a Registered Charity / Not-for-profit organisation under the ATO and now Australian Government / Australian Charities and Not-for-profits Commission, registration attached.

The registration means a **full exemption to s94 and s94a contributions** applies to RSL LifeCare developments lodged under the State Environmental Planning Policy [SEPP] (Housing for Seniors or People with a Disability) 2004. The full exemption is possible under the Ministerial Direction attached, in relation to either of Council's applicable section 94 and section 94A.

Development contributions aren't uniformly applied state-wide:

- sometimes seniors housing and other community uses are fully exempted;
- sometimes they pay a concessional rate, and;
- at other times they pay the full levy.

The Ministerial Direction (attached) seeks to uniformly regularise an approach to section 94 contributions levies for seniors housing *by social housing providers*. Dot point 2 (of the Direction) states that the Minister has the power to determine how development contributions are levied. Since 14 September 2007, the new Direction was brought into place to remove all development contributions levies for all forms of seniors housing, provided it is in relation to a social housing provider's project.

When the SEPP (Housing for Seniors or People with a Disability) 2004 applies, RSL LifeCare is a social housing provider based on the definition provided in SEPP (Housing for Seniors or People with a Disability) 2004, a full exemption applies under the Ministerial Direction.

The definition of a social housing provider is set out below:

social housing provider means any of the following:

- (a) the New South Wales Land and Housing Corporation,
- (b) the Department of Housing,
- (c) a community housing organisation registered with the Office of Community Housing of the Department of Housing,
- (d) the Aboriginal Housing Office,
- (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998,
- (f) the Department of Ageing, Disability and Home Care,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.**
(Our emphasis)

Section 94 and 94A contributions may apply unless the Ministerial Section 94E Direction of 14 September 2007 can be applied.

The exemption can be applied to any s94 and s94A conditions written in a previous Development Consent issued from 29 January 2013 (date of RSLLC's attached registration). Just provide this information to your town planner to respond to the condition accordingly.

If you would like to address a s94 and s94a condition in between 14/09/2007 and 29/01/2013, MT will need to source the previous RSLLC ATO certificate (proving RSL LifeCare is a not-for-profit organisation) during that time. Please discuss with MT if this occurs.

For any new Development Applications being prepared, provide this information to the town planner for inclusion in the Statement of Environmental Effects (SEE).

I have successfully achieved full exemptions to s94 and s94A contributions for RSL LifeCare, using RobertsDay Town Planners, contact Oliver Klein, details below:

oliver klein
senior associate
m +61 437 259 581

RobertsDay
planning•design•place

level four
17 randle street surry hills
nsw australia 2010
t+61 2 8202 8000
Oliver.Klein@robertsday.com.au

***** Confidentiality and Disclaimer Statement *****

This email and any attachments are intended for the named recipient only and may contain private, confidential or legally privileged information as well as copyright material. Newcastle City Council does not waive any client legal privilege attaching to this email. The information must not be copied, printed, distributed or adapted without Council's consent. If you are not the intended recipient you must not reproduce or distribute any part of this email, disclose its contents to any other party, or take any action in reliance on it. If you have received this email in error, please contact the sender immediately and delete the message from your computer.

This email does not constitute a representation by the Newcastle City Council unless the author is legally entitled to do so. Any email message sent or received by Newcastle Council may need to be disclosed by the Council under the provisions of the Government Information (Public Access) Act 2009 (NSW). Any email message sent or received by Council may be saved in Council's Electronic Document Management System.

This email and any attachments have been virus scanned however Newcastle City Council does not represent or warrant that this communication is secure and free from computer viruses or other defects and will not affect your computer. No liability is accepted for any loss or damage resulting from a computer virus, or resulting from a delay or defect in transmission of this email or any attached file. This notice should not be amended or deleted.

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd**, an innovator in Software as a Service (SaaS) for business. Providing a **safer** and **more useful** place for your human generated data. Specializing in; Security, archiving and compliance. To find out more [Click Here](#).