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# Ordinary Council Meeting (Supplementary Business Paper)

Tuesday 22 February 2022









**ORDINARY COUNCIL**

Notice is hereby given that an Ordinary Council meeting of Randwick City Council will be held in the Prince Henry Centre, 2 Coast Hospital Road, Little Bay on Tuesday, 22 February 2022 at 7pm

**Mayoral Minute**

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Therese Manns  
**GENERAL MANAGER**



## Mayoral Minute No. MM5/22

**Subject: Responding to recent coastal fatalities at Little Bay**

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MM5/22

### Motion:

That Council:

- a) hold a minute's silence in memory of ocean swimmer Simon Nellist who died following a shark attack near Little Bay, and father and son Peter and Mahan who drowned after being swept off rocks while rock fishing near Little Bay Beach;
- b) works with the Department of Primary Industries, Surfing NSW and the Rural Adversity Mental Health Program to hold and advertise community drop-in stands at our beaches providing mental health support and counselling services, shark education and beach safety information commencing this weekend 26 and 27 February 2022;
- c) undertakes an urgent review of rock fishing related signage and rescue devices including Angel rings and TUI rescue tubes across the Randwick Council area;
- d) notes that a rock fishing education and communication campaign will be implemented as part of the Open Space and Recreation Strategy, aimed at improving safety for rock fishers in Randwick City;
- e) notes that Randwick Council was the first council in Australia to implement compulsory lifejacket rules for rock fishers in 2016 and shock signage in 2015 which a Coronial investigation recommended extending to other LGAs; and
- f) officers investigate, in conjunction with the families if desired, an appropriate commemoration for Simon Nellist and father and son Peter and Mahan, and brings back a report to Council.

### Background:

The community of Little Bay and the broader Randwick City community has been shocked recently following the tragic death of three people along the coast at Little Bay.

On Monday 31 January 2022, 10-year-old Mahan and his father Peter drowned shortly after being swept off rocks near Little Bay Beach.

The pair were fishing a rock ledge on the southern side of Little Bay known as The Gutter. It is believed they were not wearing lifejackets.

Then on Wednesday 16 February 2022 at 4.30pm, 35-year-old Simon Nellist from Wollie Creek died following catastrophic injuries caused by a White Shark while ocean swimming on the northern side of Little Bay.

The death was the first fatal shark attack in Sydney since 1963.

The deaths have rattled the Randwick City community. On behalf of Randwick Council, I extend our deepest sympathies to the families and friends of Simon, Mahan and Peter. Our thoughts, prayers and sympathies are with them during this difficult time.

Our coastline is enjoyed by residents and visitors alike, and water safety and education is increasingly important.

There have been 21 rock fishing related deaths in Randwick City since 2001 – including six in Little Bay. This statistically makes our stretch of coastline amongst the most dangerous in the country.

Randwick Council has been at the forefront of rock fishing safety and education, working with industry and community groups and State Government for the past decade.



Council staff installing lifejacket signage (left) and shock signage (right) showing the number of deaths in the locality.

Randwick City was the first council to introduce compulsory lifejackets for rock fishers as part of an Australian-first trial in 2016 which became permanent on 1 June 2018. Many other councils such as Ballina Shire, Central Coast, Lake Macquarie, Port Stephens, Richmond Valley, Sutherland Shire and Northern Beaches have since opted into the legislation.

Council has conducted research surveys in 2013 and 2017 to better understand recreational fishing attitudes and practices.

The surveys showed a staggering 42% of rock fishers were unaware that people had died at the same spot they were fishing. When shown a mock-up of 'shock signage', 75% of fishers surveyed thought the signage could reduce rock fishing accidents and 70% said it would influence their behaviour while fishing (2013 survey).

The survey outcomes led to the introduction of rock fishing 'shock signage' in 2015 at blackspot locations which shows the number of fatalities including translations.

These shock signs were noted in a 2015 Coronial Inquest into rock fishing deaths in NSW by Deputy State Coroner Magistrate Forbes who recommended that the signage concept be extended to other council areas.

In 2017, Council partnered with the NSW Government and the NSW Recreational Fishing Alliance to hold a series of practical rock fishing workshops with professional rock fishing guide Alex Bellissimo. Participants received a free lifejacket upon successful completion of the seminar.

However, the tragic deaths of Mahan and Peter are an urgent reminder of the need for ongoing vigilance.

#### **Attachment/s:**

Nil

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**Responsible officer:** The Mayor, Cr Dylan Parker

**File Reference:** F2019/00632



# Director City Planning Report No. CP7/22

**Subject: Infrastructure Contributions Bill**

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## Executive Summary

- This report summarises the submission on the Infrastructure Contributions Bill forwarded to the Department of Planning & Environment (DPE) in December 2021.
- Due to the overlap of the exhibition period with the caretaker period in December 2021, DPE has advised that a Council endorsed submission may be made one week after the first meeting of the new Council in 2022.
- The key matters raised in the submission relate to:
  - financial implications (losses for Council);
  - proposed Regional Infrastructure Contributions;
  - local contribution reforms;
  - new land value contributions mechanism;
  - deferral of infrastructure contribution payments from developers; and
  - reduction in the timing for councils to review their local strategic planning statements (LSPS) from 7 years to 5 years.
- It is recommended that Council endorse the attached submission and forward it to the DPE with any further amendments as may be considered appropriate.

## Recommendation

That Council:

- a) endorse the attached submission to the NSW Government on the proposed Infrastructure Contributions reforms; and
- b) submit the final submission with any additions or amendments to the Department of Planning and Environment.

## Attachment/s:

1.  Draft RCC Infrastructure Bill Submission 2021

## Purpose

The purpose of this report is to inform Council of the infrastructure reforms package proposed by the NSW Government and to outline the matters raised in the submission (attached) prepared by Council officers. which was forwarded to the Department in mid-December 2021. Given the overlap of the exhibition period with the caretaker period in December 2021, the Department advised that a council endorsed submission may be made one week after the first meeting of the new Council in 2022.

The reforms including the Infrastructure Bill was placed on exhibition from late October until mid-December 2021. The legislative changes will include amendments to the EP&A Act, 1979, policy instruments and practice notes.

The Department intends to reform the infrastructure contributions system by July 2022.

## Background

Section 7.12 (former s.94A) of the Environmental Planning and Assessment Act 1979 (EP&A Act) authorises Council to impose as a condition of consent, a fixed levy based on the cost of development, when a development consent or complying development certificate is issued. Funds collected under this framework are used to provide for additional or improved public facilities to meet expected demands arising from new development.

Councils existing s.7.12 Contributions Plan 2015 applies across Randwick City (except for two areas being the Kensington and Kingsford Town Centres (K2K) which has a separate s.7.12 Infrastructure Plan and the Bundock Street Department of Defence Area which has a s.7.11 Plan). The Plan which is progressively updated in line with capital work priorities, provides an efficient, clear and effective approach to requiring developer contributions from applicants. The Plan's levy framework is expressed as a flat percentage rate commensurate with the cost of works (ranging from 0.5-1%). It sets a 5-10 year scenario for the implementation of a schedule of capital works covering a range of items from public domain improvements, road upgrades, and public art installations, to new multipurpose facilities, bushland regeneration and dune restoration. The K2K Infrastructure Contribution Plan levy provides for a maximum of 2.5% of cost of works and was prepared alongside the K2K Planning Proposal (adopted by Council in December 2019).

### Infrastructure reforms

The proposed infrastructure reforms stem from the NSW Productivity Commissioner's package of recommendations to deliver a "fair, transparent, consistent and certain system".

The Infrastructure Bill was originally introduced in Parliament in June 2021 and was subsequently referred to the Legislative Council Portfolio Committee No.7 – Planning and Environment for inquiry. The report handed down by the Committee on 10 August 2021 recommended that the Bill not proceed until the draft regulations have been released for consultation and the reviews into the rate pegging system, benchmarking and the essential works list have been published by the Independent Pricing and Regulatory Tribunal.

The Minister for Planning and Public Spaces committed to modifying the reform package and work with councils to ensure that no council will be worse off. The NSW Government undertook further modelling and amended the reform package in November 2021.

### Meeting with Department of Planning

Council officers met with the Department on 30 November 2021 to discuss the impacts of the proposed reforms on the contributions framework applying to Randwick City. Council officers were assured that the existing Kingsford and Kensington Town Centres (K2K) scheme would not be impacted by the proposed reforms. Council officers will continue to liaise with the Department to ensure that the proposed legislation protects the existing contributions scheme for the K2K corridor to enable the delivery of planned infrastructure in line with expected growth.

## Discussion

The attached submission addresses the following aspects of the proposed reforms:

- Proposed Regional Infrastructure contributions

The reforms propose to replace the existing 'special infrastructure contributions framework (SICs), with a new *regional infrastructure contributions* framework (RICs) to fund regional infrastructure such as public open space, affordable housing, public transport, and roads.

New development in the Greater Sydney region will be required to contribute \$12,000 per dwelling house, \$10,000 for other types of residential development (eg per unit in a residential flat building) and \$30 per m<sup>2</sup> for commercial floor space).

The attached submission seeks a commitment from the NSW Government that the collection of funds for regional infrastructure must be allocated and delivered within the sub-regional district in which they are collected, in accordance with the district infrastructure priorities outlined in the relevant district plans as well as local plans and strategies. For Randwick this is the Eastern District Plan, the local contributions plans and resourcing strategies.

There is further concern that councils will have limited opportunity to influence expenditure and that there should be a high level of transparency around expenditure of these funds.

The proposal to implement two tiers of infrastructure contributions (local and regional) would place an added cost impost for small scale development applicants (e.g., 'mums and dads') who are seeking improvements to their homes.

- Local Contributions – s.7.12 Plans

The proposal to replace the current percentage of construction cost approach with a "fixed levy" based on the number of additional dwellings or proposed commercial floor space raises a number of issues including the added complexity of the new approach and the creation of uncertainty in its implementation.

Within the eastern suburbs the highest levy of \$15,000 per new dwelling or \$6,000 per additional bedroom for alterations and additions is proposed. The NSW Productivity Commissioner's Final Report (November 2020) indicates that the maximum s.7.12 levy be increased from 1% to 3% for residential development. It is considered that the reforms would be better altered by simply amending the current maximum levy from 1% to 3% of construction costs.

- Financial implications

Council officer's analysis of the potential implications of the proposed contributions framework within Randwick City indicates that this will result in financial losses (see below under Resourcing Strategy Implications). Given that the majority of DAs in Randwick City are for alterations and additions, in many instances, applications will be exempt from paying a contribution if there is no increase in bedrooms numbers or if the plans mislabel other uses for bedrooms (to avoid paying the levy e.g study rooms, gyms etc). The submission highlights the long term financial implications for Council and the ability to appropriately address and respond to future social, environmental and economic needs of local communities.

- Land value contributions

The proposed 'land value contribution' charge is a new approach that will enable value capture resulting from rezoning or development, namely for greenfield urban release areas. It allows councils to require all landowners in an identified precinct *within a contributions plan* to pay a 'land value contribution' charge based on no more than 20% of the value of that land. The charge is imposed when the land is rezoned and collected when the land is sold. The scheme is an optional alternative to collecting 7.11 contributions for land acquisitions. It's also important to note that the relevant value is not the market value but the value of the land for rating purposes as determined by the NSW Valuer General.

Whilst supportive of the proposed new mechanism for value capture (where a portion of the windfall gain resulting from awarding development rights such as through rezoning is captured), this contributions framework should extend to all urban renewal precincts and not just greenfield

sites given that wind fall gains are achieved through new infrastructure and rezoning across Sydney. Further detail is sought from the NSW Government on this mechanism.

- Deferral of contribution payments

A key concern raised in the attached submission is that the draft Bill proposes to extend the timing of development contributions payments to the occupation certificate (OC) stage beyond the COVID 19 pandemic period. Prior to the COVID 19 pandemic, payment of s7.12 levies were required at the construction certificate stage. Formalising the existing temporary COVID arrangements will have flow on effects on the timing of infrastructure delivery by councils. The deferral in payment to the OC stage in many instances, can result in payment delays over several years, with consequential impacts on the timely provision of essential community infrastructure. It also places the burden on existing rate payers with infrastructure costs to support new developments until the payments are made.

- Review of Local Strategic Planning Statements (LSPS)

Council raises concern in relation to the amendment that will bring forward the timing for review of LSPSs from 7 years to “at least every 5 years”. The current provisions allow councils to undertake reviews as required within a 7- year window (or earlier if possible) and with consideration to Council’s Integrated Planning and Reporting Framework. Councils were not consulted about this change and there is no rationale provided for it.

## Strategic alignment

The relationship with the City Plan is as follows:

Outcome/Direction	Delivery Program actions
Outcome 6	6. A liveable city.
Direction	6a. Our public infrastructure and assets are planned, managed and funded to meet the community expectations and defined levels of service.

## Resourcing Strategy implications

Councils have consistently raised concerns with the NSW Government that the proposed infrastructure reforms will result in councils being left financially worse off. Council’s financial modelling estimates that over 10 years Council will be worse off by **\$9,305,000**. This has been calculated by subtracting the expected income of **\$39,216,000** under the proposed reforms from the projected income of **\$48,521,000** over 10 years. Council’s modelling takes into account increased housing and commercial activity identified through Council’s Local Strategic Planning Statement (LSPS) and Housing Strategy. The Department’s new rates are based on new dwellings, additional bedrooms, co-living rooms and commercial floor space rates which do not appear to equate to an overall 3% contribution rate as recommended by the NSW Productivity Commissioner.

## Policy and legislative requirements

Environmental Planning and Assessment Act, 1979  
 S.7.12 Development Contributions Plan  
 S.7.12 Development Contributions Plan: Kensington and Kingsford Town Centres  
 Long Term Financial Plan.

## Conclusion

Whilst a robust, streamlined and efficient infrastructure funding system is fundamental to supporting local community infrastructure needs, stimulating development, supporting economic growth and for job creation, Council officer’s submission emphasises that the reforms must ensure that councils do not end up financially worse off. Furthermore, it is noted that the Minister has

recently committed to ensuring no council is worse off, however this should be backed up by clear evidence demonstrated through economic modelling for each LGA taking into account unique circumstances.

Given the various delays in the infrastructure reforms package to date, it is appropriate that the NSW Government be requested to delay commencement of reforms for at least another six months from the intended commencement date of 1 July 2022. It is also considered that proposed transition periods for councils to implement those reforms within their local contributions plans should therefore be delayed.

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**Responsible officer:** Stella Agagiotis, Manager Strategic Planning

**File Reference:** F2004/08420



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Follow us here



CP7/22

Ms Kate Speare  
Director- Infrastructure Funding Policy  
Department of Planning, Industry and  
Environment  
Locked Bag 5022  
Parramatta NSW 2124

17 December 2021

Ref No: F2004/06124

Sent via email: [infrastructure.contributions@planning.nsw.gov.au](mailto:infrastructure.contributions@planning.nsw.gov.au).

Dear Ms Speare,

#### **Randwick City Council Submission – Infrastructure Contributions Bill**

Randwick City Council welcomes the opportunity to comment on the latest stage of the NSW infrastructure contributions reforms. This submission has been made by Council officers and is not the endorsed Council submission. A further submission may be made in late February 2022 following the reporting of this submission to Council.

The exhibited changes include operational and administrative detail on the reforms including the following:

- detailed framework for State infrastructure contributions (Regional Infrastructure Contributions);
- a draft *Environmental Planning and Assessment Regulation (Infrastructure Contributions) 2021*;
- the Practice Note Review: Policy Paper and updated Ministerial Directions
- detailed framework for land use value contribution; and
- changes to how local infrastructure contributions are made.

Over the last year, Council has made a number of submissions on the reforms raising concerns that several measures appear to be unidirectional and focussed on the development industry, with limited consideration to the variable market conditions and unique characteristics at the local level which have a bearing upon infrastructure funding and delivery. While a robust, streamlined, and viable infrastructure funding system is necessary for facilitating good development and economic outcomes, the reforms must ensure that councils do not end up financially worse off nor result in cost shifting from developers to ratepayers.

Furthermore, it is noted that the Minister has recently committed to ensuring no council is worse off, however this should be backed up by clear evidence demonstrated through economic modelling for each LGA taking into account unique circumstances. As it stands the reforms are likely to have significant implications on the ability for councils to fund and deliver essential infrastructure necessary to meet the needs of new development, and the broader community.











