BUSINESS PAPER

# Ordinary Council Meeting (Supplementary Business Paper)

**Tuesday 22 February 2022**

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# 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**



**Late Director City Planning Report**



Therese Manns
**GENERAL MANAGER**

# Mayoral Minute No. MM5/22

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



### 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 Wolli 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

CP7/22

### 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

CP7/22

## 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 $30 per m$^2$ 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 infrastucture funding system is fundamental to supporting local community infrastruture 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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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.

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.

It is noted that the Bill introduced in Parliament in June 2021 was 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.

In relation to commencement of the new reforms, the updated Bill requires contribution plans approved before 1 July 2022 to be reviewed and re-made prior to 1 July 2024. Councils will be able to apply for an extension to this deadline. Any plans made after 1 July 2022 must be reviewed in line with the new Regulations and reviewed every 4 years.

The following comments outline concerns and implications of the latest suite of reforms from a local government perspective.

**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.

The RIC (Base Contribution) has been determined by the property type and the region that the development occurs in, with all new development in the Greater Sydney region 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 $30 per m$^2$ for commercial floor space).

While the need for a mechanism to fund regional level infrastructure is well understood and acknowledged, the following concerns are raised:

- There is no certainty that the funds would be spent in the districts in which they are collected. Given the broad geographic spread of the Greater Sydney region, the RIC framework would result in the dispersal of valuable infrastructure funding from areas of great demand (such as increasingly dense inner city areas) to undefined 'regional projects' that have little or no correlation with the development area where contributions are collected. In this context, the RIC framework effectively constitutes a transfer of income from local communities to the State, to the detriment of the delivery of local infrastructure. It is our contention that the collection of funds for regional infrastructure must be allocated and delivered within the 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. These matters must be embedded in legislation so there is certainty for both proponents and the community that regional infrastructure levies are directed appropriately on a district basis;
- There is limited opportunity for councils and local communities to truly influence how and where RIC funds are allocated. Although the latest changes provide clarity that councils can nominate regional infrastructure projects for RIC funding, there is no certainty that these identified projects would be approved. Moreover, the nomination process would be resource intensive for Local Government, in terms of preparing business cases outlining project benefits, economic justification, and value for money. Concerningly the reforms do not appear to have sufficient checks and balances in place to address the perception of politically motivated decisions on where funds would be distributed;
- Regional infrastructure contributions should be subject to the same high level of scrutiny as local infrastructure contribution plans where councils are required to detail the type, location, estimated cost and timeframe for local infrastructure delivery, together with public exhibition requirements. The State Government should be required to meet the

same level of transparency, and accountability as Local Government with respect to how it plans on spending regional contributions;

- A regional charge on top of the local development contributions levy would place an added cost impost for small scale development applicants (e.g., 'mums and dads') who are seeking improvements to their homes;
- There needs to be state level commitment to the timing of contributions to ensure that RIC levies collected are spent on projects in a timely manner and this should be embedded in the legislation.
- Implementing two tiers of infrastructure contributions will be an added complexity to local contributions processes. It would be an added administrative burden for councils (e.g., checking, verifying and levying two types of infrastructure charges, providing advice to applicants). Furthermore, the onus would be on councils for the most part to undertake messaging to the local community and other stakeholders about the changes to the contributions regime. This again highlights the importance of Government commitment towards resourcing and guidance for councils in the implementation of the new charge.

***Local Contributions – 7.12 Plans***

The reforms propose to replace the current percentage of construction cost approach with a "fixed levy" based on the number of additional dwellings or commercial floor space in a development or additional bedrooms resulting from alterations and additions. The levies vary on a geographical basis with the Eastern suburbs required to pay the highest levy of $15,000 per new dwelling or $6,000 per additional bedroom for alterations and additions. 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. This is in recognition of the increasing costs of providing infrastructure in infill areas. However, the proposed scheme as provided under the draft regulations does not achieve the outcome anticipated by the NSW Productivity Commissioner.

The current s.7.12 development contributions framework, calculated as a fixed percentage based on the cost of works sliding scale, has been in operation in Randwick City for a number of years providing a system that is simple, easy to understand and manageable. The advantages of the s.7.12 infrastructure framework is widely recognised and tested over time, allowing for the timely collection and allocation of funds for delivering infrastructure as a direct consequence of development. In our experience, the s7.12 framework is efficient and less costly to administer and to update compared to s7.11 contributions plans and provides a good balance between flexibility for Council and certainty for proponents.

***Financial implications***

Council officers have conducted an in-depth analysis of the potential implications of the proposed contributions framework based on the provisions of the draft regulations. The analysis assessed the developer contributions paid to Council through development applications and complying development certificates over a two-year period ranging from 1st January 2019 to 31st December 2020. The rationale behind the timeframe was to include one ordinary year prior to COVID-19 as well as the year of the 2020 lockdown. The contributions received for all development over this period was **$5,633,824**. This amount was extrapolated to **$48,521,000** over 10 years based on the estimated value of increased housing and commercial activity identified through Council's Local Strategic Planning Statement (LSPS} and Housing Strategy. In contrast, the contribution amount that would be achieved under the proposed infrastructure contribution scheme would only provide Council **$39,216,000** in funds over this period, which is largely due to the rates applied for new dwellings, additional bedrooms, co-living rooms and commercial floor space rates which do not equate to an overall 3% contribution rate as recommended by the NSW Productivity Commissioner.

The proposed income from the S7.12 component of the Kensington to Kingsford (K2K) Infrastructure Contributions Scheme based on a 2.5% rate is estimated to be $**28,708,665** over a ten-year period whilst the K2K Community Infrastructure Contributions Plan (CIC) over a ten-year period is estimated to be **$35,024,572** which would provide funds well in excess of that provided under the proposed scheme. Based on an analysis of development applications submitted to Council in the K2K precinct, the combined contributions from the CIC and s7.12 plan would be considerably more than contributions pursuant to the rates per new dwelling, co living rooms and commercial floor space provided for under the new s7.12 regime and well in excess of the 3% recommended by the NSW Productivity Commissioner. This highlights that Council would be financially worse off should the new s7.12 framework replace the K2K infrastructure funding framework and essential infrastructure envisaged in the K2K Planning Strategy would not be able to be delivered.

In a meeting with DPIE on 30 November 2021, Council officers were assured that the existing K2K scheme would not be impacted by the proposed reforms. Council is appreciative of this commitment and would like the opportunity to have further discussions with DPIE to ensure that the existing contributions scheme for the K2K corridor continues to operate and can deliver the planned infrastructure in line with expected growth.

There are substantial concerns that the abandonment of the percentage based approach may have far reaching financial implications for inner city councils such as Randwick City. In particular, the following issues are noted:

- Concerns are raised that the new fixed rate approach may undermine Randwick City's own local infrastructure schemes and result in rate payers being financially worse off. The local infrastructure schemes for the Kensington and Kingsford Town Centres (K2K) is case in point. This legislated scheme comprises three components: a new s. 7.12 Plan (2.5% of capital investment value), a Community Infrastructure Contribution (CIC) (based on a per square metre rate on the proposed uplift) and an Affordable Housing Plan based on 3% (rising to 5%) of new residential floor space. This three-tiered approach has been underpinned by rigorous modelling and feasibility testing to ensure equitable outcomes in terms of infrastructure funding and delivery to support expected growth, while ensuring a financially viable project for proponents.
- Council's analysis indicates that financial losses and the consequently benefits for the broader community 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. Therefore, any changes that may erode councils' income from contributions will have long term financial implications and the ability to appropriately address and respond to social, environmental and economic needs of local communities. To address this issue, it is recommended that the levy be based on the capital investment value or per $m^2$ rate for additional gross floor area as proposed for commercial floor space which is considered to be a fairer and clearer mechanism to implement.
- In relation to alterations and additions, concerns are raised that applicants could easily circumvent the requirement to pay a levy for additional bedrooms by seeking development consent for media rooms, studies, family rooms and the like which could be readily converted into a bedroom thereafter. It is therefore likely that Council will incur further losses.
- It is recommended that the NSW Productivity Commissioner's recommended 3% of capital investment value be applied to existing infrastructure plans/framework as this both meets the intentions of the reforms and is simpler and easier to administer. Councils should be given the option of maintaining a fixed percentage charge rather than rates as proposed.

CP7/22

**Land Value Contributions**

The draft Bill introduces a new ‘land value contribution’ charge as a mechanism to enable value capture resulting from rezoning or development, namely for greenfield sites. It allows councils to require all land owners in an identified precinct within a contributions plan to pay a ‘land value contribution’ charge based on a percentage of land area of value. The charge is imposed when the land is rezoned and collected when the land is sold.

Council is supportive of the proposed new mechanism for value capture, noting that it addresses the issue of capturing a portion of the windfall gain resulting from awarding development rights such as through rezoning. Value sharing is a reasonable and equitable approach, allowing the wider community to also benefit from infrastructure investment, site rezoning or development approvals for a high value or more intensive land use and additional development rights to a land owner, which are not available to all land owners. While the new land value contribution is a step in the right direction, a number of issues are raised for consideration:

- The land value 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. The K2K urban renewal area is case in point. The roll out of the City to South East Light Rail and increases in heights and FSRs in Kensington and Kingsford town centres has resulted in large increases in land value along the light rail alignment. There has been no mechanism to capture part of the land value gain that vendors have solely benefited from uplift along this corridor. The proposed land values contributions framework in this context would have allowed the community to have a share in infrastructure investment and rezoning that have increased the land values for land owners along this corridor.

In terms of administration, this new framework requires the vendor or purchaser to apply for a *land value contribution certificate*‘ from council. The council then determines the contribution in accordance with the regulations and the contributions plan concerned.

While the new land value contribution is a step in the right direction, a number of issues are raised for consideration:

- The draft Bill is light on detail on how the value capture charge would be administered and implemented. Clarification is sought on how the funds received would be utilised and allocated i.e what types of infrastructure projects would be funded and in which area? It is prudent that any value capture charges received from land sales within the LGA be spent on infrastructure projects within the local or district area, and this should be mandated within the legislation;
- The draft Bill should explicitly state that the land value contribution must be an additional contribution to the local development contributions;
- The value capture mechanism is a new approach to incorporate into council’s development contributions and infrastructure funding framework. As such, there would be an added administrative burden from developing the land contributions area framework and implementing the charge, as well as preparing and issuing land value certificates. It is integral that Government commits adequate resourcing, support and technical assistance if councils are to transition into this new framework.

**Deferral of Payment of Contributions**

The draft Bill proposes to extend the timing of payment of development contributions to the occupation certificate (OC) stage beyond the COVID 19 pandemic period.  This would formalise the existing temporary arrangements whereby applicants have until the issuing of an occupation certificate in which to pay the development contribution levies. Prior to the COVID 19 pandemic, payment of s7.12 levies were required at the construction certificate stage.

One of the risks with delaying the payment of contributions to Council, is the flow on effects on the timings of infrastructure delivery. 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.

A further risk is that there is likely to be added pressure for private certifiers to issue occupation certificates prior to the payment of contributions. Council has recently been undertaking audits of CDC applications that have not paid contributions and have recovered over $500,000 over a period of 12-18 months. Chasing unpaid contributions not only places a significant burden on councils, but more importantly is an inefficient use of resources. This change will no doubt make it harder for councils to recover income and this process requires urgent improvement including a well-designed automated system for collecting contributions that prevents issuing of certificates until contributions are paid.

It is further recommended that a level of flexibility be retained in the legislation for councils to determine the timing for the payment of s7.12 levies, rather than the blanket timeline imposed by the State Government which itself is an overreach of power. This would allow councils the opportunity to better plan for infrastructure projects and align anticipated s7.12 income streams with capital works delivery programs.

**Review of local strategic planning statement (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.

The amendment is considered unnecessary and is likely to create resource implications for councils.

If you would like to discuss or clarify any matters contained in this submission, please contact Stella Agagiotis Council’s Manager Strategic Planning on 9093 6954.

Yours sincerely

**Therese Manns**

**General Manager**