

REPORTS TO COUNCIL - FOR COUNCIL DECISION

ITEM NUMBER	13.9
SUBJECT	Exhibition of Housekeeping Amendment to City of Parramatta (Outside CBD) Development Contributions Plan 2021
REFERENCE	F2022/00230 - D08744883
REPORT OF	Senior Project Officer Infrastructure Planning

CSP THEME: Innovative

WORKSHOP/BRIEFING DATE: Nil

PURPOSE:

The purpose of this report is to outline the administrative changes proposed to the City of Parramatta (Outside CBD) Development Contributions Plan 2021 (Plan) as part of a housekeeping amendment to the Plan. The report recommends that Council endorse the 'Draft City of Parramatta (Outside CBD) Development Contributions Plan 2021 (Amendment No. 1)' for the purposes of public exhibition.

RECOMMENDATION

- (a) **That** Council endorses the "Draft City of Parramatta (Outside CBD) Development Contributions Plan 2021 (Amendment No. 1)" provided at **Attachment 1** for public exhibition.
- (b) **That** the draft Plan be publicly exhibited for a minimum period of 28 days.
- (c) **That** Council delegates authority to the Chief Executive Officer to correct any minor anomalies of a non-policy and administrative nature that may arise during the plan making process.
- (d) **Further, that** Council commences a broader review of the Works Program outlined in the Outside CBD Development Contributions Plan.

BACKGROUND

1. At its meeting of 12 July 2021, Council endorsed the "*Draft City of Parramatta (Outside CBD) Development Contributions Plan 2021*" for finalisation, subject to a number of amendments. The new Outside CBD Contributions Plan was a key component of the "Harmonisation Project", which was established to create a single consolidated local planning framework for the LGA following the creation of the new City of Parramatta Council in May 2016.
2. The new Outside CBD Contributions Plan ("the Plan") consolidated and replaced a number of contributions plans that were administered by the new Council as a result of the realignment of Council boundaries during the local government amalgamation process. Following the endorsement of the Plan by Council and the approval of the Minister for Planning, the Plan came into effect on 20 September 2021.

3. The Plan has now been in operation for approximately 14 months. During this time, a limited number of issues that are substantively of an administrative nature have been identified, which the proposed draft amendment seeks to address. The proposed changes are outlined in the section below.

ISSUES

Modifications of consent

4. Under the existing wording of the 'transitional arrangements' section of the Plan, all development applications seeking modification following the commencement of the Plan will be subject to the new contribution plan. This leads to the unintended consequence of a modified development application being assessed under a different Plan to which the original consent was issued.
5. A modification of development consent can only amend the matters relating to the modification sought by the applicant and any associated conditions. The modification itself cannot change the original development contribution unless it is directly related to the works proposed by the modification. Therefore the development contribution condition itself should not be subject to review only by the fact that Council has implemented a new development contribution regime.
6. A minor change is proposed that amends the wording of the Plan to state that modifications to development applications will continue to be levied under the contributions plan in place at the time of the original determination.

Levying development contributions on new residential allotments

7. The current Plan does not allow for a development contribution to be levied for land subdivision applications creating new residential lot/s where there isn't a dwelling being created at the same time. Since the commencement of the Plan, there have been occasions where a landowner may seek to demolish and rebuild an existing dwelling, as well as subdivide a portion of the existing site for future development without seeking approval for the future dwelling on the new lot.
8. In this scenario, the landowner benefiting from the development uplift is not required to pay a monetary contribution on the newly created lot, as the Plan does not provide a resident occupancy charge rate for the creation of new allotments. This is unfair to a future owner of the new allotment, who will have to pay a contribution for that new allotment, instead of the original landowner who benefitted from the subdivision and sale.
9. In accordance with *Environmental Planning & Assessment Act (EP&A Act)* and associated Regulation, the intention of a Section 7.11 Plan is to ensure that any new development that generates additional demand should only pay an appropriate contribution for that additional demand. Further, where existing demand already exists, then this needs to be credited toward the overall contribution calculation.
10. The intention of this amendment is to ensure that there is a better alignment between the time of which development occurs, and when a development contribution is paid to Council. This approach is consistent with Council's former s7.11 development contribution plans, as well as contributions of most

councils and is accepted by industry as the appropriate timing for this implementation of a development contribution levy.

11. To address the above issue, it is proposed to amend the Plan as follows:
 - a. Amend Table 3 to insert an additional category for 'new allotments', with the assumed number of residents to be based on the same rate that would apply for a 4+ bedroom dwelling (3.5 residents).
 - b. Amend Table 4 to include 'new allotment' as an additional Type 1 Residential accommodation category term.

The effect of this change is to ensure that the original landowner who carries out and benefits from the subdivision, will have to pay the contribution for the subdivision (not the incoming purchaser of the new allotment(s)).

Defining social housing and social housing providers

12. The wording of the current Plan provides an exemption from development contributions for affordable or social housing that is being undertaken by a social housing provider. For the avoidance of doubt, notations have been included in the Plan to denote that definitions for "social housing", "social housing provider", and "affordable housing" are the same as otherwise included within the EP&A Act and the Housing SEPP.

Introduction of new worker occupancy rates

Childcare facilities

13. For the purpose of calculating development contribution levies, the current Plan does not provide a worker occupancy rate for childcare facilities. An assessment of development applications lodged with Council over the last five years indicated that the average gross floor area to worker occupancy rate was approximately 42 sqm per worker.
14. The assessment found that 42 sqm per worker represented an accurate reflection of average worker occupancy rates in development applications that were approved by Council over the past five years, while also complying with the minimum indoor and outdoor play space requirements for accredited childcare facilities as administered by the Commonwealth Government Regulator, the Australian Children's Education & Care Quality Authority (ACECQA).
15. Given the availability of this data and the number of development applications received in a given year (approximately 7-8), it is proposed that a new workforce occupancy rate of 42 sqm per worker for 'childcare facilities' be introduced within the 'Infrastructure – Community' land use in Table 7 of the Plan. The introduction of a worker occupancy rate will provide more transparency to industry and the community as to how Council will levy new childcare facilities under the Plan.

Indoor recreation facilities

16. The Plan does not currently prescribe a worker occupancy rate for indoor recreation facilities such as private gyms and dance studios. An assessment of

all development applications lodged with Council over the last five years (a total of 17) found that more than two-thirds of these types of applications determined were for facilities with a total site area of less than 1,000 sqm, with an average worker occupancy rate of 149 sqm per worker. A small number of consents issued over the same period were for facilities well in excess of 1,000 sqm, which disproportionately affected the average worker occupancy rate per sqm.

17. As the current Plan does not provide an appropriate 'similar use' in the workforce occupancy rates outlined in Table 7 of the Plan, it is proposed that a new rate of 149 sqm for 'indoor recreation facilities' be introduced within the 'Infrastructure – Community' land use in Table 7 of the Plan.

Minor corrections of a non-policy nature

18. A number of minor corrections that are of a non-policy nature are proposed, including:
 - a. Inclusion of references to Council's Voluntary Planning Agreement Register, and guidance as to how a Planning Agreement may affect the time of the provision of local infrastructure;
 - b. Typographical amendments to clarify which sections of the EP&A Act and the associated Regulation apply for imposing development contributions through complying development;
 - c. Amendments to the methods that Council will accept payments (removal of cash and cheque payments);
 - d. Updated guidance on the responsibility of private certifiers to receive written confirmation that all monetary contributions owing have been paid prior to the issuing of an occupation certificate;
 - e. Updated references that reflect the role of the NSW Planning Portal as the method to submit development applications and complying development certificates;
 - f. Updated references to co-living housing resulting from amendments to the Housing State Environment Planning Policy (Housing SEPP) on 1 July 2022; and
 - g. Minor amendments to the process for crediting of monetary contributions for previous consents to new or modified applications before refunds will be considered.

FUTURE REVIEW OF WORKS PROGRAM

19. The Plan includes a works program that identifies the infrastructure required to meet the needs of the forecast population growth over the 20 year period from 2021 to 2041. This growth was based on Council's Community Infrastructure Strategy, adopted by Council in July 2020, which forecasted that an additional 166,839 residents will live within the Plan area by 2041, as well as an additional 33,131 workers and 2,306 visitors.
20. The works program as endorsed by Council estimated that the infrastructure required to service the Plan area would cost approximately \$1.69 billion over 20 years, with \$1.39 billion of these costs attributed ("apportioned") to new population growth. For the Plan to be able to fully fund the apportioned costs of funding this infrastructure, the Plan was required to generate \$69.5 million per year over the life of the Plan.

21. Since the commencement of the Plan in September 2021, that Plan has collected approximately \$2.75 million to September 2022 quarter. Forecasts for the current financial year suggest that the Plan could generate approximately \$4 million. Based on these figures, it is highly unlikely that the apportioned value of the current works program (\$1.39 billion) will be met by development contribution income generated from the Plan alone, increasing the overall funding gap to Council.
22. In response, Council needs to conduct a review of the works program to ensure that projects are prioritised to align with funding that is available. To enable this the work program will most likely need to be reduced. Prioritisation of projects should align with Council's strategic priorities, as well as the key principles around development contributions funding including whether the Council is reasonably expected to provide a service or facility, does the project constitute capital works, does it meet the demands of incoming populations (as opposed to existing areas with limited growth) and how high is the apportionment value. A future review of the works program would need to apply stricter criteria to ensure that an amended works program can be delivered through the likely income generated from the Plan.
23. A review of the Works Program would likely commence in early to mid-2023, and would require consultation with relevant stakeholders and Councillors. A future report back to Council on the outcome of the review would be likely to occur by late 2023.

CONSULTATION & TIMING

Stakeholder Consultation

24. The following stakeholder consultation has been undertaken in relation to this matter:

Date	Stakeholder	Stakeholder Comment	Council Officer Response	Responsibility
September 2021 - present	Internal staff implementing the Plan	Issues of an administrative nature complicate the assessment of development applications and CDCs, due to an inconsistency in wording and the lack of like-for-like land use categories (particularly childcare centres)	Consultation has been undertaken with internal sections of Council to identify areas in the Plan that can be amended to provide greater clarity as to the intention of the Plan when applying a development contribution levy.	City Planning & Design

Councillor Consultation

25. The following Councillor consultation has been undertaken in relation to this matter:

Date	Councillor	Councillor Comment	Council Officer Response	Responsibility
Standard briefing prior to Council meeting	All	Report finalised prior to briefing	Report finalised prior to briefing	City Planning & Design

LEGAL IMPLICATIONS FOR COUNCIL

26. Section 215 of the *Environmental Planning and Assessment Regulation 2021* allows for council's to amend or repeal a contributions plan. Further, Section 215(5) of the Regulation allows for council's to amend a contributions plan without preparing a new plan for a limited number of reasons, including 'minor typographical corrections'.
27. Council Officers have determined that while the amendments to the Plan as outlined in this report are substantially of an administrative nature, the introduction of a new residential charge rate for new allotments and the new proposed worker occupancy classifications for childcare facilities and indoor recreation facilities fall outside the scope of Section 215(5) of the Regulation. As a result, the changes proposed would require Council endorsement for the purposes of publicly exhibiting the *Draft City of Parramatta (Outside CBD) Development Contributions Plan 2021 (Amendment No. 1)* draft Plan.

FINANCIAL IMPLICATIONS FOR COUNCIL

28. The changes proposed in the draft Plan are substantially of an administrative nature, and there are no direct financial implications to Council resulting from this report.
29. Should Council resolve to support a review of the works program, it would be done within Council's existing budget and resources. Any financial implications resulting from the review of the Plan's work program will be outlined for Council's consideration as part of a future report.
30. The table below summarises the financial impacts on the budget arising from the approval of this report.

	FY 22/23	FY 23/24	FY 24/25	FY 25/26
Revenue				
Internal Revenue				
External Revenue				
Total Revenue				
Funding Source	N/A	N/A	N/A	N/A
Operating Result				
External Costs				
Internal Costs				

Depreciation				
Other				
Total Operating Result	N/A	N/A	N/A	N/A
Funding Source	N/A	N/A	N/A	N/A
CAPEX				
CAPEX				
External				
Internal				
Other				
Total CAPEX	N/A	N/A	N/A	N/A

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ATTACHMENTS:

- 1 Draft Outside CBD Development Contributions Plan 2021
(Amendment No. 1)

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Pages

REFERENCE MATERIAL