

City of Parramatta Council Submission – Productivity Commission Review of Infrastructure Contributions in New South Wales

EXECUTIVE SUMMARY

In April 2020, the NSW Productivity Commission was appointed by the Minister for Planning and Public Spaces to conduct a comprehensive review of the broader infrastructure contributions system in NSW.

The aim of the comprehensive review is to provide recommendations that will:

- Fund the infrastructure needed to support growing communities
- Lead to an infrastructure contributions system that is simple to understand, transparent and principles-based
- Meet the objectives of certainty and efficiency to support stakeholders and boost investment in NSW.

In July 2020, as part of the first stage of the comprehensive review, the Productivity Commission has released an Issues Paper on the broader infrastructure contributions system. The Issues Paper provides a broad summary of key issues with the existing system and poses several questions for stakeholder consideration to inform a future infrastructure contributions system.

City of Parramatta Council welcomes the opportunity to provide feedback to the Productivity Commission's review of infrastructure contributions in NSW.

This submission has been prepared by City of Parramatta Council Officers. Whilst it has not been formally approved by Council, it is based on a number of Council-endorsed policies and documents.

Key issues that are raised in this submission include:

- Key principles on which a broader infrastructure contributions review should be based, which should not be limited to infrastructure contributions but rather relate more broadly to infrastructure planning and delivery.
- Support for value sharing as an appropriate and transparent mechanism on which to base planning agreements, as per Council's Planning Agreements Policy.
- The importance of Special Infrastructure Contributions to support the delivery of State infrastructure, particularly in Parramatta.
- The need to review the funding of all infrastructure, including new infrastructure and the renewal of existing infrastructure, as well as special categories of infrastructure such as social/affordable housing.
- Commentary on the added pressures of rising land costs and the difficulty of land acquisitions using contributions alone for infill councils such as City of Parramatta.

The NSW Productivity Commission has indicated that following an initial review based on the Issues Paper, roundtable discussions with stakeholders will take place in August 2020. Council requests the opportunity to take part in these discussions.

SUBMISSION

NSW Productivity Commission Issues Paper – *Review of infrastructure contributions in New South Wales*

Introduction

The City of Parramatta Council welcomes the opportunity to provide feedback to the Productivity Commission's review of infrastructure contributions in NSW. In recent years the Council has been building a coordinated planning approach to accommodate a growth of the population of our local government area (LGA) of around 200,000 over 20 years that will consolidate the role of Parramatta as Sydney's Central River City. Council has been working with the NSW Government and the Greater Sydney Commission to develop a suite of strategic planning strategies to guide development to deliver an exciting and attractive new city-region where people will live, work and play. This has involved developing planning policies and delivery mechanisms that seek to ensure infrastructure is provided to support this rapid growth in an efficient and timely manner.

Council has been responding to this challenge by seeking to establish infrastructure funding mechanisms that support Council's delivery of the infrastructure that the local community requires. This has involved the development of an innovative new value-sharing mechanism aligned with major new growth in the Parramatta CBD, as well as the consolidation of nine different Contributions Plans from the five different former local council areas that now make up the City of Parramatta LGA.

The effective delivery of supporting infrastructure is potentially one of the greatest challenges to realising the vision of the new Central River City. Council has recently prepared a Community Infrastructure Strategy (CIS) and Draft CBD Infrastructure Strategy which identify the need for infrastructure as detailed in the table below.

Council is currently reviewing its Developer Contributions Framework to seek to enable it to fund the majority of these works. Council is seeking to utilise a value sharing framework in the Parramatta CBD to support this growth. Council is uncertain if this will be supported by the Department of Planning Industry and Environment (DPIE).

Whilst the consolidation and updating of the existing Contributions Plans and the introduction of a value sharing framework in the CBD will provide a major potential funding source for new infrastructure to support growth, these will not fully fund the necessary infrastructure and will still leave a significant funding gap that Council will need to fill from other funding sources.

Council recently made a detailed submission to the NSW Government's Infrastructure Contributions Review drawing on its experiences in planning for new growth in the region. This submission draws on the issues and comments supplied in response to consultation on that review. As a Council already deeply involved in seeking to identify new solutions to the timely delivery of local infrastructure to support major and rapid growth, Council welcomes the opportunity to engage in consultation on potential reforms to the infrastructure contributions system. Council would welcome an opportunity to participate in the series of stakeholder roundtables that the Issues Paper notes will be held with NSW Government agencies, local government, industry and community groups to enable further discussion of the issues and feedback on potential reform options.

This submission has not been formally approved by Council but has been prepared by Council officers drawing on the following Council-endorsed policies / documents:

- Council's recent submission to the Infrastructure Contributions Review by the NSW Department of Planning, Industry and Environment (DPIE) in June 2020. The Council-endorsed submission to DPIE is included at **Appendix A**.
- Council's Planning Agreements Policy included at **Appendix B**.
- Council's Community Infrastructure Strategy, available as an attachment to a Council report of 13 July 2020 here:
https://businesspapers.parracity.nsw.gov.au/Open/2020/OC_13072020_ATT_587_EXCLUDED.PDF

The Community Infrastructure Strategy was reported to Council on 13 July 2020 and was endorsed subject to several amendments as per Council resolution. The Council report is **Appendix C** and the Council resolution is **Appendix D**.

- Other relevant Council policy frameworks relating to infrastructure planning and contributions.

General Comments

It is noted that the Issues Paper exhibited by the Productivity Commission raises fundamental questions – the outcomes of which may later guide policy reform.

In this respect it is not clear how this review process relates to the recent exhibition process undertaken by DPIE wherein a suite of potential policy reforms relating to infrastructure funding mechanisms were proposed. Clarification of the relationship between how the Productivity Commission and DPIE policy review processes will be coordinated to facilitate policy change would assist stakeholders in providing further feedback and understanding potential future policy directions.

Comments on Chapter 1 – the overall context of infrastructure contributions and future review of the current system

As outlined in Council's recent submission to the DPIE (**Appendix A**), Council considers that a review of the broader infrastructure contributions system is required.

Key principles that should underpin this review include:

- a) This Review should knit together the various and often disparate ways in which development contributions and infrastructure planning and delivery are currently practiced in NSW.
- b) This Review should be entrenched in a coordinated and equitable vision for delivering adequate, high-quality infrastructure to all communities across NSW.
- c) This Review should focus first on improving infrastructure delivery (rather than just contributions mechanisms) and should have at its core a realistic consideration of the true costs of planning, delivering, maintaining, and replacing public infrastructure.
- d) This Review should take into consideration that the requirements for infrastructure planning / delivery and contributions vary considerably based on the environmental context in question.
- e) This Review should examine the development feasibility impacts of contributions in a transparent and holistic manner.
- f) At a minimum, the Review should better coordinate all type of development contributions, acknowledging their interrelationships and better defining how they are meant to work

together. More broadly, the Review should think outside of the current mechanisms available and contemplate the creation of new and more appropriate policy tools for infrastructure funding and delivery.

- g) Procedurally, the above would mean reviewing not only the contributions methods which the *Environmental Planning & Assessment Act 1979* (EP&A Act) gives rise to, but the provisions of the EP&A Act itself.

The questions posed in the Issues Paper touch upon the principles outlined in Council's submission to the DPIE above. In this regard, the issues raised in the Paper are supported as a basis for consideration in relation to potential reforms. However it is emphasised that policy review in this area should not be limited only to infrastructure *contributions*, but should ideally relate more broadly to infrastructure *planning and delivery*, of which contributions is just one element.

A related issue challenging the City of Parramatta is the need for the renewal of existing infrastructure. There have been long established principles of apportionment, nexus and fairness established to guide Section 7.11 Contributions Plans to ensure these contributions are targeted on providing new infrastructure to manage new growth rather than renewing existing infrastructure. These were relaxed when Section 7.12 Contributions Plans were introduced, but these plans were capped at 1% of the cost of development (except in certain cases such as the Parramatta CBD where higher rates were permitted). The operating principles for Section 7.11 Contributions Plans and the cap on Section 7.12 Contributions Plans mean that these plans have provided minimal assistance to Council in renewing existing assets. Given the challenges the City of Parramatta and other Councils in established areas experiencing significant growth face in renewing existing assets, it is important that this issue be considered as part of the broadest possible review of infrastructure funding arrangements.

Comments on Chapter 2 – general issues in infrastructure funding and delivery

The City of Parramatta is experiencing unprecedented growth which is accompanied by high infrastructure demand. This demand – as well as Council's approach to meeting those demands - is discussed in detail in Council's recently adopted *Community Infrastructure Strategy* (CIS), which highlights the future local infrastructure needs within the LGA over the next 20 years. The Productivity Commission is referred to the CIS as an example of good practice policy in this area when considering how policy reform might improve infrastructure planning. It is critical to ensure that infrastructure delivery and funding is based on such detailed analyses of future need in order to deliver tangible benefits to the affected community.

Comments on Chapter 3 – infrastructure contributions mechanisms and issues

Council's submission to DPIE provides comprehensive feedback on specific mechanisms within the existing NSW infrastructure contributions framework. Some key issues raised in that submission are highlighted below.

Planning Agreements and value sharing

Council's Planning Agreement Policy is attached to this submission (**Appendix B**). It provides Council's approach to a wide variety of detailed matters relating to the processing, negotiation and administration of Planning Agreements.

Council has a resolved policy position on the use of value sharing as an acceptable approach upon which to base Planning Agreements.

Council's current policy framework for Planning Agreements applies a value sharing approach based on a percentage of a pre-determined rate of value uplift per square metre (in the CBD), or 50% of value uplift on a site-specific basis (outside the CBD) (see **Appendix B**).

Council considers this to be a transparent and equitable mechanism upon which Council can ensure that the benefits associated with increased development potential are shared by everyone and that communities are not inappropriately burdened by too much development and not enough infrastructure.

Under the existing NSW infrastructure contributions framework, traditional developer contributions are usually not sufficient to provide the necessary infrastructure – particularly in urban infill areas, such as those that characterise the growth areas of the City of Parramatta LGA.

Therefore, an approach based on an equitable and transparent value sharing mechanism is considered to be an appropriate and innovative solution to help ensure that communities are provided with necessary infrastructure.

For more information on Council's position in relation to value capture as an appropriate VPA mechanism, see part 2A of **Appendix A**.

Section 7.11/Section 7.12 infrastructure contributions

Whilst administratively more complex, Section 7.11 plans provide greater certainty for the delivery of the required infrastructure within a precinct and the broader LGA. In this regard, these types of plans are considered by Council officers to be more transparent.

In relation to the timing of contributions payments, payment at the issuing of a construction certificate is preferred. Whilst it is acknowledged that in the current COVID-19 environment there is allowance of deferred payment at occupation certificate stage, as recently mandated through the Ministerial Direction issued on 25 June 2020, it is preferred that contributions be secured at an earlier stage to better guarantee the collection of funds for infrastructure delivery. However, were a financial security be implemented, such as recording the contributions requirement on the property title as mentioned in the Paper, this could be potentially considered a viable option.

Notwithstanding this, there would remain a risk around this option not only for Council, but also for the broader community. For example, if the property were to be sold to another landowner prior to the issuing of an occupation certificate, the new landowner would effectively be bearing the costs which would otherwise have already been paid by the original landowner.

The payment of contributions earlier in the cycle also allows Council to deliver infrastructure closer to the time growth occurs. When the contribution is made at occupation certificate stage the occupants of a development are almost immediately creating demand for the infrastructure. There is then a time lag before Council can organise delivery of the infrastructure to meet that demand. When Council receives funding earlier in the process this time lag is minimised.

A common criticism of value sharing by the development industry is that requiring the provision of infrastructure in a value sharing mechanism will drive up housing prices. Work undertaken by consultants engaged by Council to review the impact of value sharing policies suggests that if the property market is allowed a period of adjustment, market forces should see any requirement to fund infrastructure reflected in the payment the developer makes to purchase the development site

without impacting on developer margins. The added benefit of this is that it will also drive down property prices for land with development potential which would also assist with land acquisition issues addressed in other parts of the discussion paper and this submission.

For commentary on infrastructure contributions caps and IPART reviews, refer to section 2B of **Appendix A**.

For commentary on Section 7.12 fixed development consent levies, refer to section 2C of **Appendix A**.

Section 7.24 special infrastructure contributions

Council Officers are supportive of special infrastructure contributions (SIC) being implemented to deliver State infrastructure as well as their application more broadly to fund such infrastructure.

SICs should be aligned to the District Plans as well as other land use planning strategies - including local strategies - to deliver State infrastructure in a coordinated manner that aligns with local infrastructure and land use planning.

Parramatta, being the major centre of the Central City District, already has major State infrastructure works either being delivered or announced, including the Parramatta Light Rail and Sydney Metro West. Council has requested that a SIC for the City of Parramatta be progressed in consultation with Council. This is discussed in further detail in **Appendix A**.

Affordable Housing

Council's Affordable Rental Housing Policy 2019 (**Appendix E**) sets a target of 9,500 affordable rental dwellings to be delivered in the City by 2036. This target is based on a rough estimate of the likely rate of rental housing stress in the City of Parramatta based on current rates of housing stress and the projected population growth. While the Policy also provides some planning system interventions for Council to contribute towards meeting this target, it is unlikely that the target will be met by Council's efforts alone.

Council's Policy nominates that where land is rezoned outside the CBD that affordable housing to the value of 10% of the land value uplift should be provided by the developer which is at the upper end of the Greater Sydney Commission's recommended rate of 5-10%. Nonetheless Council does not consider that this will make a significant contribution to the 9,500 affordable rental dwellings target in Council's Policy. Council estimates that only about 10-20% of the target may come from this source.

While requiring provision of affordable housing as part of value sharing model is a viable option, this is just one component of the infrastructure that is often required to support growth. The more of the uplift value that is applied to deliver affordable housing, the less that is available for other forms of infrastructure needed to service the growth of new housing provided. This often presents councils with difficult choices to make on what supporting infrastructure to apply contributions secured towards.

A more fundamental review of funding for all infrastructure, including affordable housing, needs to be undertaken to address appropriate funding mechanisms to meet the needs for all forms of infrastructure required to support new growth. It is apparent that the provision of affordable housing to meet local needs cannot rely solely on planning mechanisms to meet local affordable housing targets Council analysis suggests are required.

Comments on Chapter 4 – further issues in infrastructure contributions

a) Property owners benefit from public investment in infrastructure

Regarding land value capture and Council's position on the matter, refer to comments on Chapter 3 above, or refer to **Appendix B**. Council's VPA policy and Draft Parramatta CBD Planning Proposal seek to implement value capture principles to secure funding for infrastructure. Regulatory changes to support this practice is supported.

b) Land acquisition and rising land values

Escalating land prices are a critical factor in delivering infrastructure. In particular, providing for additional open space and sporting fields in infill areas such as Parramatta is a significant challenge. As land values increase the cost to councils of acquiring land for these purposes increases placing substantial pressures on all funding sources but in particular developer contributions plans which are perceived to be the funding mechanism for addressing open space need associated with new growth.

There are also technical issues with ensuring contributions frameworks are robust enough to deal with increase land prices. As acknowledged in the paper, there remains the difficulty in determining the correct cost escalation for land values, particularly as land costs continue to rise. In Council's submission to the DPIE (**Appendix A**), the Consumer Price Index (CPI) is accepted as the commonly used indexation mechanism in planning practice, however, it does not fully reflect the actual increase in infrastructure delivery and land costs. Council supports the introduction of an alternate indexation mechanism of the Building Price Index (BPI) which may assist in determining appropriate land costings and assist councils in accounting for property acquisition costs.

As indicated above, Council's planning policies include value sharing mechanisms and Council supports the application of value sharing principles to help achieve infrastructure delivery. The "infrastructure development charge" suggested in the discussion paper is another potential mechanism to secure value sharing, and is supported in principle subject to further details on how the charge would work and funds allocated to local infrastructure being provided. The discussion paper option of requiring the direct dedication of the land that is needed for infrastructure may be workable in some circumstances in urban release areas, but may not be as viable in urban infill areas such as the Parramatta LGA.

c) Corridors

The ideal outcome is to have funding mechanisms available to secure infrastructure corridors at the time they are identified, to avoid problems with land speculation driving up future acquisition costs for the corridor. However, it is acknowledged that if the infrastructure to be delivered in the corridor is a longer-term project there will be an opportunity cost associated with acquiring the corridor so far in advance of the infrastructure being delivered.

A risk assessment needs to be undertaken on the implications/costs for future delivery of the infrastructure if the land containing the potential corridor is redeveloped in the future in a way that prohibits or significantly increases the future delivery cost of the new infrastructure. If the implication of not securing the corridor is that a community benefit cannot be achieved or achievement of the infrastructure at time of delivery is significantly increased, then the corridor should be identified and acquired.

If a corridor is identified, application of a value sharing mechanism involving a proportion of the land value uplift associated with changes in development potential arising from rezoning of adjoining land could be used to assist with funding the cost of acquiring the corridor.

d) Provision of open space

In Council's CIS, benchmarks for open space are based on a standard identified by Parks and Leisure Australia 'Guidelines for Community Infrastructure, 2012' which factors in the demand for open space for different activities (e.g. formal sport, passive recreation, natural area), consideration of distance from dwellings to passive open space, and provision rate of 3ha/1,000 people which is based on the 2.83Ha per 1,000 people described in the discussion paper. Council uses these benchmarks to give an indication of the required open space provision in a 'like for like' manner but does not rely on them solely when considering options or making recommendations to support the needs of the community.

It is considered that there should be an agreed State Government led framework for determining the level of open space provision that clearly differentiates between active and passive open space and which can be used as a definitive benchmark. A clearer framework for the provision of open space and the appropriateness of utilising existing open space more intensively as density increases should be developed and agreed, to guide decisions about future growth in infill areas to ensure open space levels are maintained.

Planning to manage infill growth in Parramatta growth precincts has relied primarily on utilising existing open space more intensively rather than providing for increased open space provision for larger recreation spaces, particularly sporting fields. The Draft Parramatta Council CBD Planning Proposal is an example where housing capacity is increasing by 14,350 dwellings but the opportunity/feasibility of providing additional playing fields and open space is limited. As a result there is a reliance on utilising existing nearby playing fields rather than increasing supply to meet this additional demand.

It would assist if the State Government could develop clear guidance on open space benchmarks/standards that would need to be addressed before any increase in density of development is permitted via the Planning Proposal process. This would ensure the issue is clearly addressed by local councils using a recognised policy framework with the DPIE providing oversight. The concern is that the cost of acquiring land to meet these standards may be cost prohibitive to councils and a barrier to any increase in density in infill locations. Measures to manage funding of land acquisition and to help address increasing land prices are as critical as the establishment of open space provision standards/policies, if adequate provision of open space is to be achieved.

e) Water charges

Council does not have an endorsed position on this matter. It is noted that this issue is more critical to land release areas where rollout of new infrastructure is more significant rather than existing urban areas such as Parramatta where upgrades are dependent on existing network capacity.

f) Better use of digital tools

Council recognises the public benefits of transparency and accountability from the provision of additional information on development contributions and planning agreements. However any new reporting framework needs to factor in the administrative costs to councils of implementation of the new system as well as ongoing reporting. Appropriate timeframes to allow councils to implement any new system, as well as provision of adequate reporting deadlines must be considered.

Furthermore, any new framework introduced needs to be streamlined with existing accounting and reporting requirements Council is already obliged to satisfy under the provisions of the Local Government Act 1993 and Environmental Planning and Assessment Act 1979 to minimise overlap and streamline reporting processes.

Whilst a report to a central electronic repository appears to have the potential to be an efficient and simple system, the difficulty is determining a standardised reporting format. City of Parramatta, for example, currently manages nine contributions plans, many of which were inherited as part of the 2016 council amalgamations. Each plan is different, not only as the plan type (i.e. s7.11/s7.12/hybrid) but also the detailed aspects including the various infrastructure items and reserves, crediting, exemptions, provisions and a host of other policy details vary greatly. Council is currently moving towards a regime where Council will apply two consolidated plans in the LGA but even then, there will be differences between plans of different councils that need to be considered when putting together any reporting template.

g) Skills and experience

Historically the Section 7.12 contributions plan framework was introduced as a simplified framework that requires significantly less resources both in the plan preparation phase and implementation and monitoring phase than Section 7.11 plan. However, these plans generate significantly less funding to councils for infrastructure provision.

Relaxation of restrictions on the ability for Section 7.12 plans to provide infrastructure funding levels similar to those achievable under Section 7.11 plan would simplify the system in a manner that still allows Council's to achieve the communities infrastructure provision objectives.

The recent Infrastructure Contributions Review 2020 released by the State Government raised limiting the ability of Council to recoup administration costs when developing and implementing Section 7.12 contributions plans. Any mechanism that limits Council's opportunity to recoup administration costs via the developer contributions framework raises concerns as this impacts on Council's ability to fund sufficient technical staff to administer their contribution framework (see **Appendix A** Section C).

h) Exemptions

It is considered that exemptions should be kept to a minimum. Exemptions for Government projects should be carefully considered to ensure there is no cost shifting. An example is the exemption that applies to affordable/social housing provided by the Crown that shifts the costs of providing infrastructure for residents of the affordable housing to other ratepayers in the LGA in a way that is not required by a private developer providing housing.

i) Works-in-kind

Works-in-kind agreements are already possible under the existing framework and Council's discretion to enter into an agreement where it is to the community's benefit should be retained. The problem of misalignment of infrastructure delivery as a result of works-in-kind agreements may arise when they are permitted to allow development out of a planned sequence. The impacts of this can be minimised when it is only permitted if it is genuinely in the public interest.

There is a concern that a system of tradable credits established to manage cases where the value of works-in-kind are greater than the contribution required to be paid, has the potential to be administratively complex. It is likely to require a level of resources that would undermine any benefit

that would arise from the system being set up. No precedent for this sort of system of tradable credits has been identified. In addition, it is considered that the system would have minimal benefits for an infill growth council such as the City of Parramatta.

Comments on Chapter 5 – the way forward for this Review

The discussion paper flags the following key issues which require further exploration:

- Local Government Rate pegging
- Rising Infrastructure costs
- Inconsistency in how Section 7.24 SIC contributions are used
- Nexus requirements in Section 7.11 plans
- Lack of principles in use of Planning Agreements
- Lack of certainty and transparency in the process
- Misalignment between contributions systems and infrastructure delivery
- Issues caused by Essential Works list.

Many of these issues strongly overlap with issues already raised in previous parts of the discussion paper. The range of issues still to be explored reinforces the need for a more comprehensive review of how infrastructure is funded and delivered rather than one that is focused solely on changing the existing system. The range of issues requiring further consideration and their significance justify a more holistic review of the system which would be welcomed.

Given the significant infrastructure challenges facing the City of Parramatta, as well as the significant amount of policy work that has been completed by Council in this area, Council expresses an interest in participating in the proposed roundtable discussions which will follow the exhibition period of this Issues Paper.

Appendices:

Appendix A – Recent Council-endorsed submission to DPIE

Appendix B – Council’s Planning Agreements Policy

Appendix C – Council report regarding the Community Infrastructure Strategy – 13 July 2020

Appendix D – Council resolution regarding the Community Infrastructure Strategy – 13 July 2020

Appendix E – Council’s Affordable Housing Policy

A copy of the Community Infrastructure Strategy that was reported to Council can be viewed at:

https://businesspapers.parracity.nsw.gov.au/Open/2020/OC_13072020_ATT_587_EXCLUDED.PDF