

## **8.11. Amendment to North Sydney Local Infrastructure Contributions Plan 2020**

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**ENDORSED BY:** Joseph Hill, Director City Strategy

### **ATTACHMENTS:**

1. Draft Amendment to North Sydney Local Infrastructure Plan 2020 - June 2021 [**8.11.1** - 1 page]

### **PURPOSE:**

To seek Council's endorsement to publicly exhibit a minor clarifying amendment to the North Sydney Local Infrastructure Contributions Plan 2020.

### **EXECUTIVE SUMMARY:**

Council at its meeting on Monday 30 November 2020, resolved to adopt the North Sydney Local Infrastructure Contributions Plan 2020, following public consultation. The Plan subsequently came into effect on 1 March 2021.

This plan's primary purpose is to require contributions from developments toward the provision, extension or augmentation of local infrastructure. The Plan authorises North Sydney Council, a planning panel or an accredited certifier to impose conditions on development consents or complying development certificates (CDCs) requiring section 7.11 (s 7.11) contributions or section 7.12 (s 7.12) fixed rate levies from development to which the plan applies.

Specifically, the Plan allows for the levying of contributions under either section of the Act depending on the type of development proposed.

After the Plan's commencement, it has become apparent that there exists a potential inconsistency between the original intent of the Plan, which was to levy residential 'alterations and additions' under s7.12 as a flat rate levy, and the wording within the Plan, which may be interpreted as requiring this type of development be levied under s7.11 based on the net increase of residents.

It is proposed that this section be amended to make clear that 'type a' development is to include residential accommodation development that would result in a net increase in 'dwellings' on the land rather than 'residents'.

It is recommended that Council support the proposed amendment to clarify the Plan and that it be progressed to public exhibition to seek the response of the community and other stakeholders.

### **FINANCIAL IMPLICATIONS:**

The North Sydney Local Infrastructure Contributions Plan identifies \$401 million worth of community infrastructure to be delivered to support residential and employment growth, over the 16-year life of the plan. It is estimated that the Plan will fund approximately \$195.3 million of the cost of these total works. The minor amendment the subject of this report, will ensure that projected revenue through contributions is met to fund the delivery of infrastructure.

**RECOMMENDATION:**

- 1. THAT** Council endorse the proposed amendment to the North Sydney Local Infrastructure Contributions Plan 2020 (Attachment 1) for the purposes of public exhibition in accordance with s26, 28 & 30 of the *Environmental Planning and Assessment Regulation 2000*.
- 2. THAT** the amendments be placed on public exhibition for a period of twenty-eight (28) days.
- 3. THAT** following exhibition, a report be prepared detailing the outcomes of the exhibition and any recommended amendments.
- 4. THAT** if no submissions are received, the draft Plan amendment be finalised and adopted.

## **LINK TO COMMUNITY STRATEGIC PLAN**

The relationship with the Community Strategic Plan is as follows:

### 1. Our Living Environment

1.4 Public open space and recreation facilities and services meet community needs

### 2. Our Built Infrastructure

2.1 Infrastructure and assets meet community needs

2.2 Vibrant centres, public domain, villages and streetscapes

2.3 Sustainable transport is encouraged

### 3. Our Future Planning

3.1 Prosperous and vibrant economy

3.4 North Sydney is distinctive with a sense of place and quality design

### 4. Our Social Vitality

4.1 North Sydney is connected, inclusive, healthy and safe

### 5. Our Civic Leadership

5.1 Council leads the strategic direction of North Sydney

5.3 Community is informed and consulted

## **BACKGROUND**

A local infrastructure contributions plan is a public document which sets out Council's policy regime for the assessment, collection, expenditure and administration of local infrastructure contributions in a specified area. Such plans are required to be consistent with the current NSW legislative framework, to provide for proposed works required by council and relevant stakeholders and to address the strategic direction of North Sydney Council.

The North Sydney Local Infrastructure Contributions Plan 2020 was developed in accordance with s.7.11 and s.7.12 of the Environmental Planning & Assessment Act 1979.

At its meeting on Monday 30 November 2020, Council resolved to adopt the North Sydney Local Infrastructure Contributions Plan 2020, following public consultation. The Plan subsequently came into effect on 1 March 2021.

This plan's primary purpose is to require contributions of land or money from developments toward the provision, extension or augmentation of local infrastructure. The Plan authorises North Sydney Council, a planning panel or an accredited certifier to impose conditions on development consents or complying development certificates (CDCs) requiring s 7.11 contributions or s 7.12 fixed rate levies from development to

which the plan applies.

Specifically, the Plan allows for the levying of contributions under either section of the Act depending on the type of development proposed, as outlined in section 1.3.3 and section 1.4 of the Plan which make clear which type of levy is required for different types of development.

## **CONSULTATION REQUIREMENTS**

Community engagement will be undertaken in accordance with Council's Community Engagement Protocol.

## **DETAIL**

The proposed amendment and its rationale is discussed in detail below:

### **Application of Rates for Residential Alterations and Additions**

Under the current Plan, in order to calculate the applicable local infrastructure contribution for a development it is necessary to:

1. Firstly, determine what type of development is proposed. This is outlined on page 7 of the Plan under section 1.3.3 'Development affected by the plan', as shown below:

#### **1.3.3 Development affected by the plan**

This plan applies to the following development types:

- (a) Residential accommodation development that would result in a net increase in residents on the land (Type (a) development);
  - (b) Non-residential development that would result in a net increase in workers on the land (Type (b) development);
  - (c) Development types apart from (a) or (b) where the proposed cost of development is more than \$100,000. (Type (c) development).
2. Secondly, to determine which type of contribution applies based on the type of development proposed. This is outlined on page 7 of the Plan under section 1.4 'Which type of contribution applies?', shown below:

## 1.4 Which type of contribution applies?

Development that is subject to this plan will be levied either a s7.11 contribution or a s7.12 levy.

The type of contribution that applies to the development will be determined as follows:

- Type (a) developments will be subject to condition requiring a s 7.11 contribution.
- Type (b) developments will be subject to a condition requiring a contribution imposed under either s 7.11 or s 7.12 of the EP&A Act. The type of contribution method to apply to the development is discussed below.
- Type (c) developments will be subject to a condition requiring the payment of a levy under s 7.12 of the EP&A Act.

In the report on the ‘Public Exhibition of Draft Local Infrastructure Contributions Plan’, considered by Council at its meeting on 24 August 2020, reference was made to the operation of the Plan as it applied to different types of development (see below):

*“Only s 7.11 or s 7.12 contributions may be levied on a development and not both. It is proposed that the draft local infrastructure contributions plan be a mix of s 7.11 contributions for new residential development that has an increased demand and s 7.12 levies for all other development (+ alterations & additions that have not previously attracted a levy) with a cost greater than \$100,000.”*

The intent of the Plan was to facilitate the levying of contributions for residential ‘Alterations and Additions’ development under s7.12, at the rate of 0.5% for development with a cost of works between \$100,000 - \$199,999 and 1% for development with a cost of works \$200,000 and greater.

However, when considering the wording of section 1.3.3 of the Plan with reference to ‘type a’ development, alterations and additions that result in the addition of one or more bedrooms to a dwelling could be interpreted as resulting “in a net increase in residents on the land”, thus potentially defining such a development as ‘type a’ development. Under section 1.4 of Plan, this would then subject the development to a contribution under s7.11 of the Act, rather than the originally intended s7.12 levy.

If interpreted in this manner, this is contrary to the original intent of the Plan and has resulted in some level of differing opinion around how the Plan is to be applied. It is noted that alterations and additions that do not propose an additional bedroom are in fact classed as ‘type c’ development (flat rate levy) under section 1.4 of the Plan, potentially adding to the confusion.

As such, it is recommended that section 1.3.3 ‘Development affected by the plan’ of the

North Sydney Local Infrastructure Contributions Plan 2020 be modified to read as follows (**emphasis** added):

### **1.3.3 Development affected by the plan-**

This plan applies to the following development types:

- (a) Residential accommodation development that would result in a net increase in ~~residents~~ **dwelling**s on the land (Type (a) development);
- (b) Non-residential development that would result in a net increase in workers on the land (Type (b) development);
- (c) Development types apart from (a) or (b) where the proposed cost of development is more than \$100,000. (Type (c) development).

This will provide a greater level of clarity to the plan consistent with the original intent of the Plan endorsed by Council.

## **CONCLUSION**

The amendment proposed in this report will provide clarity and increase the operational efficiency of the North Sydney Local Infrastructure Contributions Plan 2020 and reflects the original intent of the Plan.

The amendment has been prepared in accordance with the requirements of the EP&A Act, the Development Contributions Practice Notes and Ministerial Directions issued by the Department of Planning and Environment. The amendment will help facilitate Council in providing sufficient local infrastructure to meet the growth and expectation in the community.

It is recommended the proposed amendment progress to public exhibition to seek the response of the community and other stakeholders.

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Page 7 be amended as follows.

### **1.3.3 Development affected by the plan-**

This plan applies to the following development types:

- (a) Residential accommodation development that would result in a net increase in ~~residents~~ dwellings on the land (Type (a) development);
- (b) Non-residential development that would result in a net increase in workers on the land (Type (b) development);
- (c) Development types apart from (a) or (b) where the proposed cost of development is more than \$100,000. (Type (c) development).