8.10. NSW Government Infrastructure Contributions Reforms

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ATTACHMENTS:
1. North Sydney Contributions Reform Impact Review - Final Report [**8.10.1** - 64 pages]
2. Submission Parliamentary Inquiry into infrastructure Contirbutions Reforms 9 July 2021 [**8.10.2** - 10 pages]

PURPOSE:

To outline the provisions of the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 and summarise Council's response.

EXECUTIVE SUMMARY:

Council endorsed a new Local Infrastructure Contributions Plan (LIC) in November 2020 which came into effect on 1 March 2021. The Plan was formulated pursuant to the provisions of the Environmental Planning and Assessment Act and is a combination section 7.11 (nexus based) and s7.12 (flat rate) Plan. The North Sydney LIC represents a total works program of $410M of which approximately $181M is projected to be funded by the Plan over its 16-year life span.

In March 2021, the NSW Government's released;

- its endorsement of the Productivity Commission's (PC's) recommendations in its November 2020 final report of the Review of Infrastructure Contributions in New South Wales for the Government ('PC final report'),
- Centre for International Economics (CIE) modelling of the revenue projection impacts on local councils in NSW as a result of the reforms (December 2020).

North Sydney Council engaged GLN planning consultants to undertake an assessment of the potential impacts of the proposed reforms upon Council's capacity to levy development contributions and fund public infrastructure (attachment 1).

A draft Bill amending the Environmental Planning and Assessment Act, 1979 was subsequently slated to be introduced into Parliament as part of the budget papers process. The draft Bill gives the Minister for Planning various powers to enact changes to the way that current local infrastructure contribution plans are structured as well as new powers to levy regional development contributions (to be paid to State Government). Importantly for Council, a significant proposed change is the need to ensure that only infrastructure that fits into an "essential works list" (EWL) be allowed to be included in Council's contributions plans. These works are yet to be defined but could have a fundamental impact upon Council's contributions revenue.

Council's consultant has estimated that this may represent approximately $7.3M per annum reduced revenue (or $124m from 2024/25 to 2040/41 representing a reduction of 45% in revenue) in the most likely scenario inclusions on that EWL. The worst-case scenario in GLNs assessment would be a $13.3M decrease in expected revenue per annum or $227M over 20 years

Council is responsibly planning for and delivering the NSW Government's growth targets. Fundamental to managing and sustaining this growth, is Council's capacity to deliver corresponding local infrastructure. Medium to long term plans to deliver such infrastructure, may have to be reconsidered, reduced or abandoned under the proposed reforms. The community's resistance to such growth will only be exacerbated if this occurs.

Significantly, the draft reforms will shift the cost burden of local infrastructure associated with new development, from developers, to the community. Any notion that the reforms are design to assist with housing affordability, simply do not hold true.

The capacity for the NSW Government to introduce a new category of regional contributions at the same time as curbing local government's capacity to levy local contributions, is of great concern. It is widely acknowledged that there is a limit to the extent that development sites can be reasonably levied and that the NSW Government has many more revenue streams at its disposal to fund infrastructure projects. The high degree of transparency that has characterised local government infrastructure funding collection and expenditure is unlikely to be replicated by the State.

Following deferral of the legislation to a Parliamentary Committee, Councils were provided an opportunity to make submissions to that Committee by Sunday 11 July. The General Manager, having conducted various discussions with NSROC, made a submission to this Upper House Committee (attachment 2).

FINANCIAL IMPLICATIONS:

The financial implications of these mooted reforms represent a very significant ongoing impact on Council's capacity to fund infrastructure associated with new development. Whilst all the details associated with the exact changes are not yet known, the most likely amendments were quantified by GLN to represent a reduction in projected contributions income of around $7.3M per annum or $124M over 20 years. The worst-case scenario in GLNs assessment would be a $13.3M decrease in expected revenue per annum or $227M over 20 years.

RECOMMENDATION:

1. THAT Council endorses the submission made to the Development Contributions Upper House Committee dated 9 July 2021 as attached to this report.

2. THAT Council makes representations to the Minister for Planning and Public Spaces to withdraw the current Infrastructure Contributions Bill and that more detailed analysis be undertaken, greater level of consultation be conducted with local government and that the full impacts on Councils' capacity to fund infrastructure to support growth in the context of changes proposed under the Bill, be better understood.

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
3.2 North Sydney CBD is one of NSW's pre-eminent commercial centres
3.4 North Sydney is distinctive with a sense of place and quality design

5. Our Civic Leadership
5.1 Council leads the strategic direction of North Sydney
5.2 Council is well governed and customer focused
5.4 Council's service delivery is well supported

BACKGROUND

Council endorsed a new Local Infrastructure Contributions Plan (LIC) in November 2020 which came into effect on 1 March 2021. The Plan was formulated pursuant to the provisions of the Environmental Planning and Assessment Act and is a combination section 7.11 (nexus based) and s7.12 (flat rate) Plan. The North Sydney LIC represents a total works program of $410M of which $181M is projected to be funded by the Plan over its 16-year life span.

In March 2021, the NSW Government's released:

- its endorsement of the Productivity Commission's (PC's) recommendations in its November 2020 final report of the Review of Infrastructure Contributions in New South Wales for the Government ('PC final report').
- Centre for International Economics (CIE) modelling of the revenue projection impacts on local councils in NSW as a result of the reforms (December 2020).

North Sydney Council engaged GLN planning consultants to undertake an assessment of the potential impacts of the proposed reforms upon Council's capacity to levy development contributions and subsequent impact on the capacity to fund public infrastructure. The full analysis and assessment conducted by GLN is included as attachment 1.

CONSULTATION REQUIREMENTS

It should be noted that there has been extensive consultation and discussion undertaken on the planned reforms between NSROC, Local Government NSW, and within the sector generally between senior officers. These discussions have revealed unity in the sectors response to the proposed changes.

DETAIL

The Infrastructure Contributions Bill seeks to introduce legislation that will enable the NSW Government to implement the recommendations of the NSW Productivity Commission Review that was completed in 2020. The Bill contains various significant changes to enable the way that the current development contributions regime is applied and implemented. These are summarised below.

1. Council's Contributions Plan (the section 7.11 component) will need to be reviewed by July 2024 to levy only for "development contingent" infrastructure which will need to fit into a definition of an "essential works list" (EWL). This is as yet undefined and will be determined by Regulation, Ministerial Direction or subordinate legislation. The expectation at this stage is that there will be restrictions to the EWL to meet the interpretation of "development contingent works", noting the EWL already excludes community facility, indoor recreation and aquatic centre capital works for plans seeking to levy more than $20K per dwelling. If the Contributions Plan includes works that are not on the EWL, then they will need to be removed when it is required to be reviewed (for implementation by 2024/25).
2. The reforms propose three main changes to how a council may charge s7.12 levies:
   - An increase in the maximum levy percentage for residential development from 1% to 3% of development cost, which is only to apply to additional dwellings, but with associated thresholds on the total contribution that can charged - $10,000 per additional house (or townhouse or semi-detached dwelling) and $8,000 per other additional dwelling (i.e. apartment or unit). These thresholds mean that the stated increase (to 3%) cannot in many cases actually be levied;
   - The maximum of 1% of the development cost is still to apply to non-residential development but with new threshold rates applied to the net increase in floorspace - $35/sqm for commercial development, $25/sqm for retail development and $13/sqm for industrial development. Similarly, these thresholds mean that the actual figure levied will be less than current 1% in many cases; and
   - A review to potentially exempt the levying of 'non-demand based' development, as North Sydney's existing s7.12 levy only applies to.
3. The introduction of 'Regional Infrastructure Contributions'. The Bill specifically identifies that "*no connection is required between the development of land to which a regional infrastructure contribution relates and the object of expenditure of money required to be paid"*. This represents a new contribution type (of $12,000 per dwelling and $10,000 per apartment) which will be payable directly to the NSW Government.

In summary, the GLN review found that:

1. NSC's current Contributions Plan framework (with both s7.11 and s7.12 contributions) has the potential to generate $277m income in real terms over the next 20 years, or around $14m per annum on average.
2. Forecast revenue comprises $237m in s7.11 contributions and $40m in s7.12 contributions.
3. The impact of the removal of certain facility works from the EWL, all else being equal, would reduce Council's s7.11 contributions revenue in real terms ($2021/22) by:

a. $5m per annum or $84m from 2024/25 to 2040/41 if community and indoor recreation facility items are excluded.

b. $3m per annum or $55m from 2024/25 to 2040/41 if open space facilities (not indoor) are also excluded.

c. $7m per annum or $112m from 2024/25 to 2040/41 if public domain facilities are also excluded.

4. The impact on s7.11 revenues as a result of the reforms should not necessitate a switch to a s7.12 levy for demand-generating development by NSC unless the EWL is so restrictive that projected contributions are reduced by at least 50%.
5. Council should seek to re-prioritise its delivery of infrastructure works where possible in its current CP to adjust delivery timing of facilities which may no longer be funded by s7.11 revenue as a result of the reforms (such as community or indoor recreation facilities).
6. Where possible, Council should provide actual evidence of its infrastructure costs to IPART during its upcoming reviews of benchmark costs so that it can demonstrate the actual cost of infrastructure provision in North Sydney and influence the cost outcomes.
7. North Sydney Council would receive more revenue by continuing to levy demand-based development s7.11 contributions, rather than s7.12 levies under the reforms, unless the s7.11 mechanism through the EWL is effectively restricted to levels below the s7.12 maximum rates. In this case, its future contribution revenues would be significantly reduced – by $198m or 71% to 2040/41, or by an average of $12m and $137 per capita each year from 2024/25 to 2040/41 (all in real terms).
8. The maximum s7.12 rates in the reform recommendation are well below the maximum percentage charges (on development cost). The non-residential s7.12 dollar limits - purportedly representing 1% of development cost - would instead reflect about one-fifth of the existing 1% non-residential levy in North Sydney Council's case. This is not an acceptable policy outcome when workers represent a large share of demand for growth infrastructure needs in the North Sydney LGA.
9. The Productivity Commission's intent of the s7.12 reforms does not appear to be met for infill council areas. It is a more complex approach with the combined percentage and threshold rates, and the maximum rates would potentially restrict revenue to a point that North Sydney Council would not be able to deliver infrastructure needs nor recover financially over 20 years, even with the population growth factor also increasing its rates income.
10. North Sydney Council would lose an estimated $2.0m per annum in real terms, all else being equal, if the NSW Government decides to exempt non-demand generating development from s7.12 levies (e.g., residential alterations and additions, and knockdown rebuilds).
11. The cumulative revenue losses of the proposed contributions reforms would be further increased by the exemption of non-demand-based development from s7.12 levies, this will place further strain on the general rates base to fund growth infrastructure accordingly.
12. The s7.12 reforms must be adjusted, phased-in or delayed (at least until the rates base has a chance to 'catch up' the revenue loss for Council) if the Government does decide to exempt non-demand-generating development from s7.12 levies.
13. PC's implementation plan suggests that contributions reforms for North Sydney Council (with a new plan in place) would start impacting contribution revenues from

2024/25 at the latest, but rate peg reforms would start impacting rates revenues from 2023/24.

14. The short to medium term negative revenue impacts of the reforms will be further exacerbated by the delay of contribution payments to the development's occupation certificate (OC) stage, which is another reason why reforms should be adjusted to reduce negative contribution revenue impacts or at the very least, be delayed or phased-in.
15. The new Regional Infrastructure Contribution (of $12,000 per dwelling and $10,000 per apartment) and Major Transport Charge will be levied on development in the North Sydney LGA, the latter only if there is an increase in development capacity because of major transport projects. Council must monitor the Government's future infrastructure list to be funded by these contributions to ensure that the LGA is getting its 'fair share'.
16. The impact on development from the new state-based charges in the North Sydney LGA appears to be offset at least partially by reduced local contributions, the extent of which will be determined with the release of further reform implementation details. The reduced funding from development contributions to Council is intended to be offset by the increase in rates revenue with the addition of the population growth factor.
17. The reforms encompass increased administrative and compliance burden for local councils in the short to medium term, particularly related to the needs of the new centralised (digitised) contributions system, the amendments to plans and the integration of the plans within the IP&R framework.

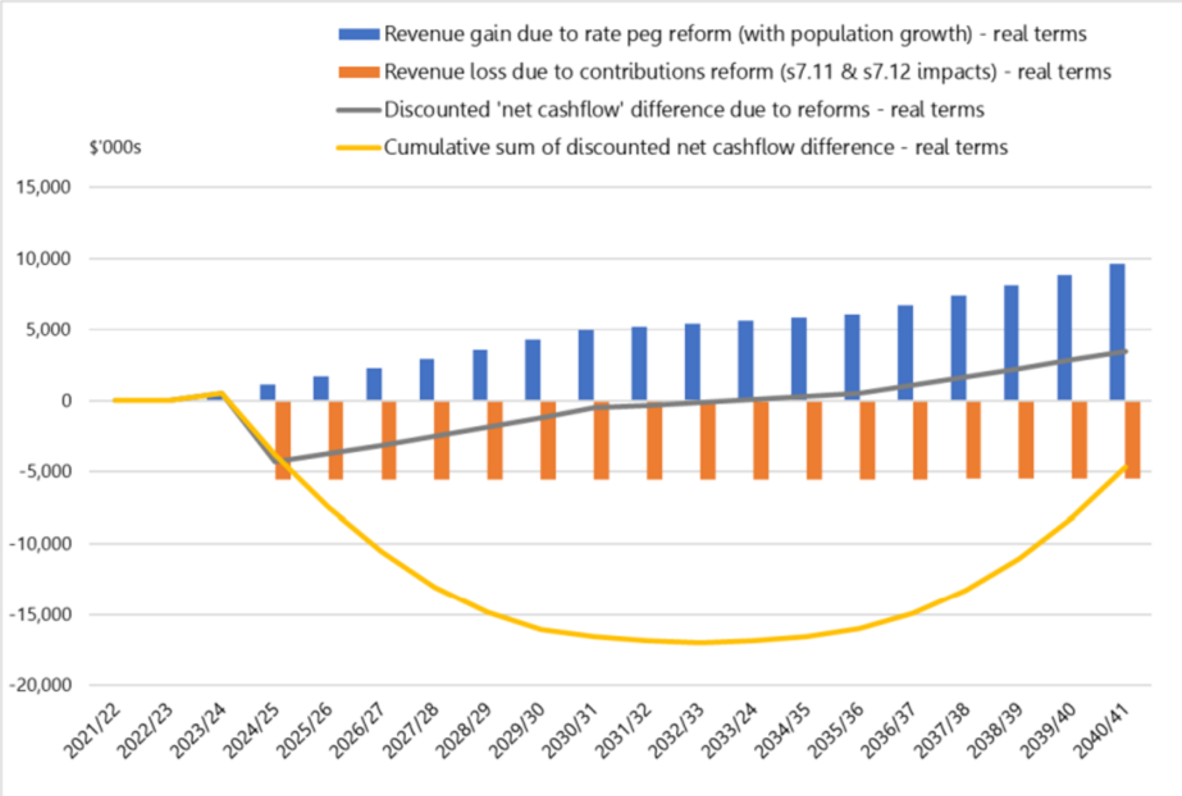
The Bill was intended to be considered by Parliament with the State budget. It was however, deferred to a Parliamentary Committee which invited submissions by 11 July 2021. Council staff took the opportunity to prepare a submission to this Committee (attachment 2).

The main issues identified for North Sydney Council are summarised below.

Enormous Potential Financial Impact

Overall, GLN found that the reforms will likely reduce local contributions revenue from development under Council's existing Contributions Plan – potentially by as much as $7.3m per annum in real terms, or 45% of projected revenue (see Figure 1, which shows the net revenue position including projected extra rates revenue arising from separate rate peg reforms being undertaken by the State Government). It is important to note that the mooted rate peg reforms should be decoupled from the current contributions discussion. These are independent reform measures with completely separate purposes. For illustrative purposes, however, the net position is shown in Figure 1 below.

Figure 1 Impact of the reforms under a likely scenario



Note: scenario is if 'essential works' exclude community/indoor recreation facilities and s7.12 non-demand generating development is exempted from s7.12 levies + rates increase by the population growth factor only (excludes other rate peg income).

This impact will take more than 20 years to reach cumulative revenue neutrality (on a discontinued net cashflow basis).

In absolute terms, Figure 2 below identifies the extent of the various options modelled by GLN and the extent of reductions in income of each as a result of the mooted reforms per annum and to 2040. Whilst the impact of the reforms will depend on the extent of the yet to be determined exclusions form the EWL, all scenarios explored by GLN will have a significant impact and some will represent an enormous financial impact.

Scenario description	Estimated revenue impact (real terms)			Compared with existing CP framework projections (real terms)		
	Estimated revenue over 20 years ($m)	Average revenue p.a. ($m)	Average annual revenue per capita ($)	Revenue difference over 20 years ($m)	Average revenue difference p.a. ($m)	Average annual revenue difference per capita ($)
Business as usual, no reforms	277.1	13.9	162.8	0.0	0.0	0.0
Community and indoor recreation facilities excluded from s7.11 EWL; no s7.12 levied	153.3	7.7	90.1	-123.8	-7.3	-85.5
Community & indoor recreation facilities excluded from s7.11 EWL & s7.12 levied @ 1% on non-demand generating development	193.0	9.6	113.4	-84.1	-4.9	-58.1
Community, indoor recreation & public domain facilities excluded from s7.11 EWL; no s7.12 levied	50.6	2.5	29.7	-226.5	-13.3	-156.5
All open space & community facilities excluded from s7.11 EWL; no s7.12 levied	107.8	5.4	63.3	-169.3	-10.0	-117.0
All open space excluded from s7.11 EWL; no s7.12 levied	182.4	9.1	107.1	-94.7	-5.6	-65.5
S7.12 levied LGA-wide with limits applied (under reforms) & exempt non-demand generating development	79.2	4.0	46.5	-197.9	-11.6	-136.7
Only "growth-contingent" infrastructure s7.11; no s7.12 levied	228.3	11.4	134.1	-48.7	-2.9	-33.7

Figure 2 - Potential impact of s7.11 & s7.12 reforms on Council's projected revenue under different scenarios (2021/22 to 2040/21)

Impact on Established Metropolitan Areas not well Modelled or Understood

The high-level modelling conducted by the NSW Government to support these proposed reforms, has not have been adequately reflective of all Councils, especially Metropolitan Councils with infill development and challenges of accommodating increased density. The provision of adequate community infrastructure, recreational facilities and public domain is essential in high density residential and commercial zones with increasing building heights and increasingly intensive use of remaining public space.

Importantly, GLN concluded that:

The (Productivity Commission's) intent of the s7.12 reforms does not appear to be met for infill council areas. It is a more complex approach with the combined percentage and threshold rates, and the maximum rates would potentially restrict revenue to a point that North Sydney Council would not be able to deliver infrastructure needs nor recover financially over 20 years, even with the population growth factor also increasing its rates income.

The prospect of an annual decline in revenue by $7.3M (in real terms - or $124M from 2024/25 to 2040/41), would represent an immense financial impact which will have a fundamental impact on Council's capacity to deliver public infrastructure to effectively accommodate growth.

Council's social license for increased density/development comes from associated improvements to community infrastructure

North Sydney Council has responsibly planned for and accommodated population, housing and employment growth through its planning policies and instruments as required by the NSW Government and the Greater Sydney Commission Regional Plan.

The disruption to local amenity and living standards represented by population or worker growth in an already densely populated environment like North Sydney, should not be underestimated. An essential and critical enabler of growth is the community's confidence that supporting infrastructure will be provided by Council to ensure that amenity and standards of living are maintained and not eroded systematically over time. The financial capacity to continue to fund such infrastructure will be severely undermined, meaning that some of these works will either have to be significantly delayed, delivered to lower standards or abandoned altogether.

A 45% reduction in projected infrastructure funding will slash Council's capacity to deliver essential community infrastructure and significantly impair Council's capacity to facilitate the growth required by the NSW Government.

The recreation and public domain projects essential to facilitating increasing urban density will simply not be able to be funded by Council should the current infrastructure reforms be adopted. Concurrently, the very real resistance that is experienced in North Sydney to population and housing growth within established communities, will be further fueled and community confidence undermined as Council's capacity to deliver infrastructure that sustains and "softens" growth impacts, is severally diminished.

Projects that the Community are expecting, will be delayed or not delivered

Council requires sustainable ongoing funding to deliver public infrastructure to ensure that the NSW Government's priorities for population and housing growth are sustained by increased open space, transport, and community infrastructure.

A tangible example of Council's reliance on developer contributions to accommodate and manage growth is the ongoing upgrades to the public domain planned and being delivered in the North Sydney CBD.

Council invested $31.2M between 2015/16 to 2019/20 in CBD public domain works, of which, $10.5M has been sourced from developer contributions reserves. There remains a significant work program to accommodate the continuing growth and commercial expansion in the CBD. These public domain works are essential to continue the ongoing commitment of growth matched by the provision of a public domain and would be impossible to fund solely from Council's general revenue.

Council can simply not afford to fall behind in its public domain improvement program, which relies heavily on development contributions funding.

In an established central area like North Sydney, the creation of new public open space is extremely expensive. The Hume Street Park project for example, was developed in response to planned growth in the St Leonards/Crows Nest precinct (subsequently adopted by the 2036 Plan). It included the undergrounding of basketball facilities, car parking and other infrastructure to liberate the surface of structures and create new public open space. The total cost of this project is in the order of $90-100M and is staged in three parts (stage 1 will be delivered by end of 2021). Council's newly adopted LIC Plan is scheduled to collect approximately $38M in developer contributions over the 16-year life of the plan to assist in the funding of this project. This is a long term project to address community concerns about open space not being provided for fast-growing population. This would otherwise be impossible to fund solely from general revenue.

Reforms Shift costs from Developers to the Community

Developer charges are relatively consistently applied across Sydney and are incorporated into a project's feasibility before projects are commenced. The reforms proposed will effectively shift this cost from developers to the wider community as the shortfall in infrastructure funding will need to be borne by other revenue sources, which in the case of local government, leverage heavily from rates revenue as the most reliable but most heavily stretched source of revenue. Historically, rates revenue has been used to fund services and maintenance, while infrastructure charges fund a portion of the capital infrastructure associated with development. The additional burden that reduced developer charges places on the wider community has a propensity to negatively impact upon overall cost of home ownership.

The shift in the burden for infrastructure to the local community will increase overall housing and living costs. Any notion that the draft reforms are designed to improve affordability simply do not hold true.

Local Growth should equate to Local Infrastructure

The draft Bill introduces the capacity for the NSW Government to apply new infrastructure charges in the form of regional infrastructure contributions. This is identified in subdivisions 4 and 5 of the draft Bill.

The NSW Government appears to be cost shifting by introducing the capacity to levy for regional infrastructure contributions. It is widely acknowledged that development contributions represent a finite source of infrastructure funding. In this context, it is disappointing that while local government's capacity to levy development contributions is being significantly reduced through the draft Bill, the NSW Government is introducing the capacity to charge new regional infrastructure levies on development of $12,000 per dwelling and $10,000 per apartment.

The collection of such contributions by the NSW Treasury, is fundamentally contrary to the notion of the clear nexus between the source of contributions and their expenditure. This clear nexus has been a fundamental component of local government contributions planning for decades with development charges collected and applied in the local area in which the development takes place. The proposed regional contributions framework introduces a level of opaqueness in a contributions system that is currently characterised by high levels of transparency.

The revenue base of local government is very limited as has been widely expressed previously. The NSW Government, on the other hand, has a diverse range of policy levers at its discretion to raise revenue for essential infrastructure.

Ministerial Powers and lack of detail

At present important information and detail regarding how the amendments to the Act will be implemented at the Ministerial level are not known. The Bill provides the Minister with significant powers that will potentially impact upon the capacity of local government to levy for local infrastructure through its developer contributions regime.

The absence of this detail and the powers at the Minister's disposal under this Bill, are concerning. As Local Government NSW states in its submission, the "Bill is akin to the State Government asking councils to sign over a blank cheque and say "trust me.'"

Conclusion

The draft Bill, whilst deferring to the Regulation and/or Ministerial Directions for detail, will clearly and significantly curb North Sydney Council's capacity to realise essential infrastructure revenue. Council's modelling indicates that, under the most likely scenario, this will represent approximately 45% in reduced revenue or an annual drop of $7.3M in funding. This will simply be unsustainable given Council's limited and restricted sources of revenue. If applied as proposed, Council will need to significantly revise and reduce commitments to its community through its Community Strategic Plan, slash its infrastructure works program and consider how much growth is sustainable given the vastly reduced capacity to provide for enabling infrastructure.

The proposed change to infrastructure charges perversely introduces a disincentive to facilitating development, undermines Local Government capacity to support increasing density and will further increase the cost of home ownership and living.

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LOCAL CONTRIBUTIONS REFORM IMPACT REVIEW

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Local Contributions Reform Impact Review

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V2 Final	Neal McCarry	1-e	2 July 2021	Nicole Haddock	Greg New

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Executive Summary

North Sydney Council ('NSC' or 'Council') commissioned GLN Planning to undertake a review of the impact of the proposed NSW contributions policy reforms on its net financial position.

The follows the NSW Government's release in March 2021 of:

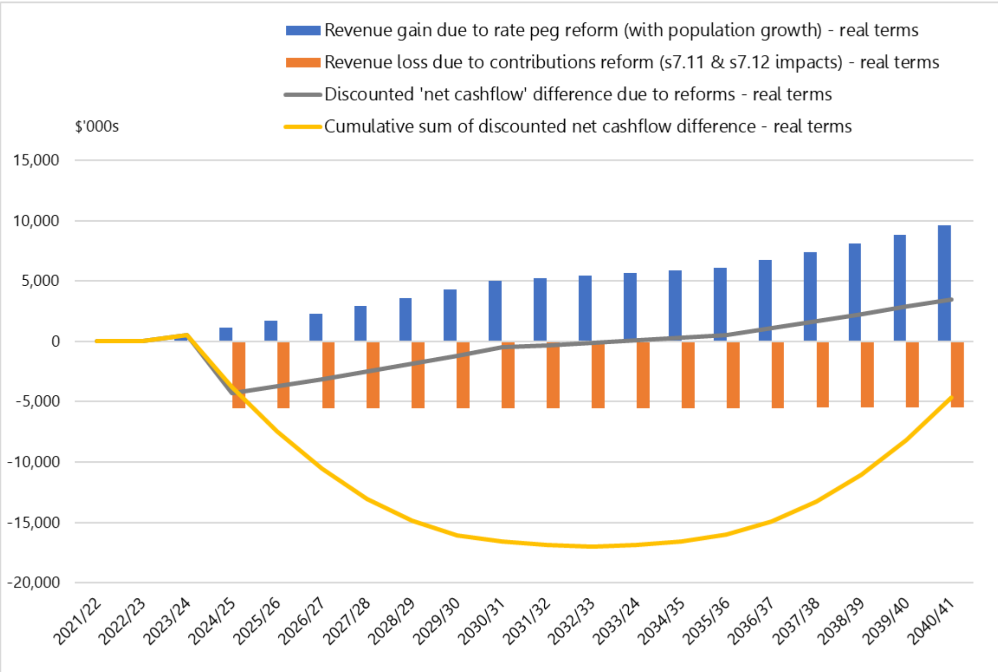
- its endorsement of the Productivity Commission's (PC's) recommendations in its November 2020 final report of the *Review of Infrastructure Contributions in New South Wales* for the Government ('PC final report').

- Centre for International Economics (CIE) modelling of the revenue projection impacts on local councils in NSW as a result of the reforms (December 2020).

Council recently implemented a new *North Sydney Local Infrastructure Contributions Plan* (as of 1 March 2021) (the "plan" or 'CP') and it has sought to determine the likely impact of the proposed reforms on revenue projections under this plan.

Our assessment has confirmed NSC's concerns that the reforms will likely reduce local contributions revenue from development under its existing plan – potentially by as much as $7.3m per annum in real terms or 45% of projected revenue without reform (see Figure 1, which shows the net revenue position including projected extra rates revenue arising from separate rate peg reforms being undertaken by the State Government).

Figure 1 Impact of the reforms under a likely scenario



Note: scenario is if 'essential works' exclude community/indoor recreation facilities and s7.12 non-demand generating development is exempted from s7.12 levies + rates increase by the population growth factor only (excludes other rate peg income).

Declines are likely to occur to both the s7.11 contributions and s7.12 fixed-rate levy projected income levels depending on the finer details of how the reforms are implemented.

Our assessment is based on modelling of income projections under Council's existing CP framework, and under different possible reform scenarios concerning the s7.11 and s7.12 contribution streams.

The extent of the impact of the reforms is not yet known with agreed recommendations by the NSW Government not yet disclosing the details concerning how certain reforms will be implemented (although this is likely to become clearer within the next few months as reform implementation steps progress).

Should the reforms accurately reflect the Productivity Commission's (PC's) principles and rhetoric about "impactor-pays" and "development-contingent" infrastructure in its final reform report, then the reforms will likely result in a medium term net cashflow decline for Council, compared with the existing projected revenue position. As shown in **Figure 1**, Council could take more than 20 years to reach cumulative revenue neutrality (on a discounted net cashflow basis).

The reform recommendations run the risk of not being "fit for purpose" for all councils and instead catering more for areas with greenfield development or specific urban release areas. Inner metropolitan councils like North Sydney are characterised by infill development in established, high-density contexts where the need for "growth-based" infrastructure will always be closely interlinked with existing demand. The cost of development and infrastructure provision can be significantly higher in North Sydney LGA than in outer metropolitan council areas.

Our assessment should equip North Sydney Council to participate in consultation opportunities as they arise in the Government's and associated parties'[1] further reviews of the reform implementation details, and when draft legislative amendments are released, as well as undertaking its own advocacy agenda, as it deems appropriate.

It should also assist Council in planning or reprioritising its infrastructure delivery priorities in the short to medium term since a significant funding stream for some category of works is likely to be removed within four years for Council.

Summary of main findings

In general, our assessment confirms the understanding that Council's revenue will decline as result of reforms to the contributions framework. We consider that there is a real possibility of Council revenue declining by at least $7.3m per annum in real terms (or $124m from 2024/25 to 2040/41) as a result of the reforms, equating to around 45% of its forecast contributions revenue under its plan (without any reform). The assumption for this forecast is that the 'essential works list' (EWL) will exclude community and indoor recreation facilities at a minimum, and non-demand generating development (such as alterations and additions) will be exempt from s7.12 levies.

The actual decline in revenue is dependent upon the details of the reforms to be implemented, the precise timing of each change and the amount and timing of development that actually occurs.

Our full list of assessment findings is as follows:

[1] Such as the Department of Planning, Industry and the Environment (DPIE) or the Independent Pricing and Regulatory Tribunal (IPART).

1. NSC's current CP framework (with both s7.11 and s7.12 contributions) has the potential to generate $277m income in real terms over the next 20 years, or around $14m per annum on average, assuming current s7.11 contribution rates continue and the development projections are achieved. This would equate to an estimated $163 per capita each year on average.
2. Forecast revenue comprises $237m in s7.11 contributions and $40m in s7.12 contributions.
3. The impact of the removal of certain facility works from the EWL, all else being equal, would reduce Council's s7.11 contributions revenue in real terms ($2021/22) by:
   a. $5m per annum or $84m from 2024/25 to 2040/41 if community and indoor recreation facility items are excluded.
   b. $3m per annum or $55m from 2024/25 to 2040/41 if open space facilities (not indoor) are also excluded.
   c. $7m per annum or $112m from 2024/25 to 2040/41 if public domain facilities are also excluded.
4. The impact on s7.11 revenues as a result of the reforms should not necessitate a switch to a s7.12 levy for demand-generating development by NSC unless the EWL is so restrictive that projected contributions are reduced by at least 50%.
5. Council should seek to reprioritise its delivery of infrastructure works where possible in its current CP to adjust delivery timing of facilities which may no longer be funded by s7.11 revenue as a result of the reforms (such as community or indoor recreation facilities).
6. Where possible, Council should provide actual evidence of its infrastructure costs to IPART during its upcoming reviews of benchmark costs so that it can demonstrate the actual cost of infrastructure provision in its LGA and influence the cost outcomes.
7. North Sydney Council would receive more revenue by continuing to levy demand-based development s7.11 contributions, rather than s7.12 levies under the reforms, *unless* the s7.11 mechanism through the EWL is effectively restricted to levels below the s7.12 maximum rates. In this case, its future contribution revenues would be significantly reduced – by $198m or 71% to 2040/41, or by an average of $12m and $137 per capita each year from 2024/25 to 2040/41 (all in real terms).
8. The maximum s7.12 rates in the reform recommendation are well below the maximum percentage charges (on development cost). The non-residential s7.12 dollar limits - purportedly representing 1% of development cost - would instead reflect about one-fifth of the existing 1% non-residential levy in North Sydney Council's case. This is not an acceptable policy outcome when workers represent a large share of demand for growth infrastructure needs in the North Sydney LGA.
9. The PC's intent of the s7.12 reforms does not appear to be met for infill council areas. It is a more complex approach with the combined percentage and threshold rates, and the maximum rates would potentially restrict revenue to a point that North Sydney Council would not be able to deliver infrastructure needs nor recover financially over 20 years, even with the population growth factor also increasing its rates income.

10. North Sydney Council would lose an estimated $2.0m per annum in real terms, all else being equal, if the NSW Government decides to exempt non-demand generating development from s7.12 levies (e.g., residential alterations and additions, and knockdown rebuilds). This equates to an average loss of $23 per capita each year.
11. The cumulative revenue losses of the proposed contributions reforms would be further increased by the exemption of non-demand-based development from s7.12 levies, This will place further strain on the general rates base to fund growth infrastructure accordingly.
12. The s7.12 reforms must be adjusted, phased-in or delayed (at least until the rates base has a chance to 'catch up' the revenue loss for Council) if the Government does decide to exempt non-demand-generating development from s7.12 levies.
13. PC's implementation plan suggests that contributions reforms for North Sydney Council (with a new plan in place) would start impacting contribution revenues from 2024/25 at the latest, but rate peg reforms would start impacting rates revenues from 2023/24.
14. The short to medium term negative revenue impacts of the reforms will only be exacerbated by the delay of contribution payments to the development's occupation certificate (OC) stage, which is another reason why reforms should be adjusted to reduce negative contribution revenue impacts or at the very least, be delayed or phased-in.
15. The new Regional Infrastructure Contribution and Major Transport Charge will be levied on development in the North Sydney LGA, the latter only if there is an increase in development capacity as a result of major transport projects. Council must monitor the Government's future infrastructure list to be funded by these contributions to ensure that the LGA is getting its 'fair share'.
16. The impact on development from the new state-based charges in the North Sydney LGA appears to be offset at least partially by reduced local contributions, the extent of which will be determined with the release of further reform implementation details. The reduced funding from development contributions to Council is intended to be offset by the increase in rates revenue with the addition of the population growth factor.
17. The reforms encompass increased administrative and compliance burden for local councils in the short to medium term, particularly related to the needs of the new centralised (digitised) contributions system, the amendments to plans and the integration of the plans within the IP&R framework.

1 Background

1.1 Reform context

The NSW Productivity Commission (PC) in 2020 undertook a holistic review of the Local Contributions System in NSW. The Final Report on the Review was released in November 2020, with a package of reforms which impact on local councils' capacity to fund local infrastructure and collect contributions from development in NSW.

The Centre for International Economics (CIE) modelled the financial impacts of the PC's proposed reform package (December 2020), including the revenue projections as a result of:

- reform of the local government rate peg to enable rates revenue to grow in line with population - currently, the rate peg does not allow for any growth in line with population growth in each council area
- adjustments to local infrastructure contributions to restrict the use of planning agreements, increase the threshold for some S7.12 levies, and allow S7.11 contributions for development-contingent costs only.

In general, CIE's results showed that under the combined set of reforms, councils will gain increased revenue from rates, but decreased revenue from infrastructure contributions, compared to what would be expected with current policy settings.

CIE's results were reported in Council groupings. NSC was identified as a below-state-average-growth metropolitan council in CIE's assessment such that the quantum of revenue impacts from each reform category was less pronounced than for high growth councils. CIE had modelled a net positive impact for this group of councils (by 1.7%) by the fifth year of the reform implementation phase, taking into account the impact of the rate peg reform as well. We have found very different results for North Sydney Council specifically.

In March 2021, the NSW Government confirmed it had accepted all 29 recommendations in the Final Report, with the timeline and agency responsibility for delivery of reforms as detailed in the PC's implementation plan. It is anticipated that the finer details of the reforms will be further consulted upon through this implementation process (including the legislative amendment processes), which will give stakeholders such as NSC further opportunity to comment on the reform impacts.

While some recommendations may be implemented early, the principles-based framework for local contributions (and underpinning legislation) is expected to be established by 1 July 2022 and apply to new plans, and draft plans that have not been publicly exhibited after that date.

Significantly, Recommendation 6.0 also requires councils to integrate their local infrastructure contributions systems into their Integrated and Performance Reporting (IP&R) Framework to

- include infrastructure contribution plans in their reporting, and
- review their infrastructure contributions plans by 1 July 2024, and every four years thereafter (or earlier if required), to align with their delivery program.

NSC will need to review its CP, in accordance with the reforms, by the start of 2024/25 at the latest.

1.2 Project approach

Consistent with the project scope, this project has consisted of two main stages:

Stage 1 – Assessment of the revenue impacts of the proposed NSW Local Infrastructure Contributions Policy reforms under the new North Sydney Local Infrastructure Contributions Plan (CP), which includes an estimate of the impact on:

a. the existing revenue projections from s7.11 contributions under the CP (by development type), and

b. the existing revenue projections from s7.12 levies under the CP (again, by development type).

Stage 2 - Review of proposed NSW Local Infrastructure Contributions Policy reforms based on potential impacts on NSC revenues, which includes:

c. A critical review of the proposed NSW Local Infrastructure Contributions Policy reforms by the Productivity Commission (and the associated methodology applied), CIE's estimated revenue projections under the reforms and the NSW Government's support for the reforms. The focus of this assessment is on the reform implications for North Sydney Council's current contributions approach, infrastructure funding capacity and contributions revenues (from different types of development), and how the reforms would likely result in a reduction or redistribution of contribution sources and/or revenue shifting.

d. An estimate of the proposed financial (revenue) impacts under different contribution structure scenarios (using the outputs in Stage 1 but extending this for additional possible scenarios, particularly with potentially beneficial reform initiatives – such as the proposed 3% levy). This step seeks to provide a strong evidence base from which Council can input to consultation opportunities on the finer details of the reforms.

e. General interpretation and clarification of reform implications.

We have focused our modelling on the proposed reforms which will have the most significant impact on the quantum of North Sydney contributions revenues (not rating revenues), as follows (from PC final report, Table 7.1: Implementation Plan):

Recommendations: Local infrastructure contributions	Agency	Timing
4.11: Increase the maximum allowable rate for section 7.12 fixed development consent levies i. Amend the maximum rate for section 7.12 contributions as follows: ▪ $10,000 per additional dwelling for houses (detached, semi-detached, townhouses ▪ $8,000 per additional dwelling for all other residential accommodation ▪ $35 per square metre of additional gross floor area for commercial uses ▪ $25 per square metre of additional gross floor area for retail uses ▪ $13 per square metre of additional gross floor area for industrial uses. ii. Index contribution rates quarterly using the Producer Price Index (Road and Bridge Construction – New South Wales) and review periodically (approximately every three to five years) to ensure they remain in line with the intended proportion of development costs.	Department of Planning, Industry and Environment	Legislation effective 1 July 2022 Applies to contributions plans with resolution to prepare on/after 1 July 2022
4.5: Section 7.11 contributions plans use benchmarked costs Independent Pricing and Regulatory Tribunal to develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient cost of provision.	Independent Pricing and Regulatory Tribunal	Develop standard provision rates and benchmarks by 1 July 2022 Applies to contributions on/after 1 July 2022
4.6: Contribution plans reflect development-contingent costs only i. Apply the essential works list to all section 7.11 contributions plans. ii. Independent Pricing and Regulatory Tribunal to review the essential works list and provide advice on the approach to considering efficient infrastructure design and application of nexus. iii. Subject to review by the Independent Pricing and Regulatory Tribunal, issue a revised practice note.	Department of Planning, Industry and Environment Independent Pricing and Regulatory Tribunal	IPART review of essential works list by 1 July 2021 Develop practice note by 1 July 2022 Applies to contributions plans with resolution to prepare on/after 1 July 2022
4.7: Independent Pricing and Regulatory Tribunal review of contributions plans be 'by exception' and based on efficient costs i. Remove the monetary trigger for review of contributions plans by the Independent Pricing and Regulatory Tribunal. ii. Develop Terms of Reference for the Independent Pricing and Regulatory Tribunal to review any costs in a section 7.11 contributions plan on a 'by exception' basis with the option of a 'targeted' review of specific sections of a plan. iii. Prepare a practice note to reflect the 'by exception' review process and requirements for local contributions plans.	Department of Planning, Industry and Environment Independent Pricing and Regulatory Tribunal	Following development of standard provision rates and benchmarks (Recommendation 4.5). Applies from 1 January 2023

The project scope required us to exclude the following reforms from our analysis:

- The proposed restrictions on Planning Agreements, and
- The proposed impacts on revenue generated under rates reforms.

GLN Planning has also been concurrently commissioned by the Northern Sydney Region organisation of Councils (NSROC) to undertake a holistic review of the reform impacts on member councils, including rate peg reform impacts. The impact on North Sydney's net income as a result of these reforms is included in our project report for NSROC and associated case study on the reform impacts for North Sydney. It is also captured in our overall Excel model for North Sydney.

1.3 Data sources

We have relied on the following key data sources to inform our projections:

- Council's work schedule CP including its works item costs, contribution rates and growth projections
- Council's contributions and financial history and where relevant, projections data (provided through this project and the project for NSROC)
- DPIE and Profile.id dwelling and resident population projections
- ABS Building Approvals data by LGA to help estimate the number of dwellings and knockdown rebuilds in the LGA each year on average, and the construction value of new houses, other dwellings and alterations/additions, as well as non-residential development (as an aggregate).

- Indexation projections based on 10-year averages for ABS-based index data (CPI and PPIs).

1.4 Key assumptions

The projections rely on GLN assumptions, which where appropriate, were determined in consultation with Council officers.

It is important to understand how the assumptions influenced the results. These could be altered in the model (provided to Council) if Council preferred an alternative:

- The growth projections (particularly workers), which are based on the DPIE and CP projections, might be considered relatively high and are determining the projected contributions revenue yields (based on dwelling and employment projections), and the forecast rates income yields (although the rate peg reform is not a focus of this project)
- We have assumed a linear development yield, that is, a constant, average annual development yield over the projected period (20 years from 2021/22). Should Council wish to update the projected development yields with a more accurate, varied development path, then it can update the Excel Model (in the Contributions Reform Impact worksheet in the opening yield rows accordingly).
- We have also made assumptions about the proportion of ABS Building Approval construction values for the LGA which would be levied s7.12 contributions at 1% (for both residential and non-residential development).

1.5 Model

The Excel file that contains the data inputs and that informs the revenue impact results in this report has been provided to Council separately.

2 Existing contributions framework projections

2.1 North Sydney Local Infrastructure Contributions Plan

Council adopted its *North Sydney Local Infrastructure Contributions Plan 2020* on 30 November 2020 and the plan came into effect on 1 March 2021. The plan covers the entire LGA as a single catchment and takes a hybrid approach with a single works program valued at $181m to be funded by both s7.11 and s7.12 contribution mechanisms.

Table 1 shows the breakdown of the works program into infrastructure categories and whether the apportionment for the item costs in the plan are shared with existing residents. It also shows the status of completed works (based on information provided by Council officers).

Public domain facilities make up the largest share of the works program by infrastructure category (43%), followed by indoor recreation centres (24%) and open space (20%). Most of the costs (85%) are 'growth contingent' works item costs (where the costs are not shared with existing residents in the plan). Only a small proportion of the items have been delivered to date, including $6.9m on increased open space capacity through land acquisition.

Table 1 Works program in Council's contributions plan ($Mar21)

Infrastructure type	Infrastructure cost in current plan ($m)	Share of works program (%)	Completed works (2019/20 & 2020/21 YTD expenditure)
Community facilities - growth contingent only	16.0	9%	$43,000 for libraries in 2019/20 & 2020/21 YTD
Community facilities - demand shared	0.0	0.0	
Total community facilities	**16.0**	**9%**	
Public domain facilities - growth contingent only	64.3	36%	$493,000 for Nth Sydney Public Domain
Public domain facilities - demand shared	14.4	8%	
Total public domain facilities	**78.7**	**43%**	Co-funded routes delivered at plan commencement; $1.5m towards traffic improvements in this period
Active transport facilities (cycleways) - growth contingent only	2.2	1%	
Active transport facilities (cycleways) - demand shared	2.3	1%	
Total active transport facilities	**4.5**	**2%**	
Open space land & embellishment (excluding indoor recreation facilities) - - growth contingent only	31.8	18%	$6.9m for increased open space capacity

Infrastructure type	Infrastructure cost in current plan ($m)	Share of works program (%)	Completed works (2019/20 & 2020/21 YTD expenditure)
Open space land & embellishment (excluding indoor recreation facilities) - demand shared	4.4	2%	
Total open space facilities	**36.2**	**20%**	
Indoor recreation facilities only - growth contingent only	37.6	21%	
Indoor recreation facilities only - demand shared	5.7	3%	
Total indoor recreation facilities	**43.3**	**24%**	
Plan administration	2.1	1%	
Total works program	**180.8**	**100%**	
Total growth contingent works only	154.1	85%	

Source: *North Sydney Local Infrastructure Contributions Plan 2020* and Council staff advice to GLN about completed works.

Note: 'Growth contingent' works assume the cost of the infrastructure item was wholly apportioned to the plan rather than being shared with existing residents (the broader rates base).

The s7.11 contributions are levied on 'demand-based' residential and non-residential development only, that is, residential development which creates net additional dwellings and non-residential development that results in net additional floorspace.

The s7.11 contribution rates in the plan are:

- $9,775 per resident
- $13,685 per 1 bedroom dwelling
- $19,550 for 2 bedroom dwellings
- $20,000 (at the current threshold) for 3+ bedroom dwellings ($25,415 without the threshold)[2]
- $3,893 per worker

The revenue above the cap for 3-bedroom dwellings is 'foregone' revenue (this will also apply to the 2 bedroom dwelling rate once the cap is reached with indexation). However, Council has included 'non-essential' community facility and indoor recreation facility items in its works schedule based on the Essential Works List (EWL) in the Department's Practice Note for IPART's assessment of

[2] a $20,000 per residential dwelling s7.11 contributions threshold applies to development throughout the North Sydney LGA. Councils that seek to impose a higher contribution must have their plan or plans reviewed by IPART and endorsed by the Minister for Planning's delegate

contributions plans.[3] Therefore, it can only charge up to the limit of $20,000 per dwelling without a review of the plan by IPART (which would then require it to remove at least 31% of the item costs as non-essential works – not a desirable option in light of its rates).

The s7.12 contributions are levied on the residual, 'non-demand generating' development such as alterations and additions, knockdown rebuilds, commercial fit outs and changes of use.

Consistent with the EP&A Regulation (cl. 25K) (prior to any reform amendments), the levies are set at a maximum of 1% of the cost of the development (with an exemption for any development estimated to cost up to and including $100,000 and a reduced levy of 0.5% for development estimated to cost between $100,001 and $200,000).

The plan incorporates growth projections of 11,902 additional residents and 16,746 additional workers in the LGA by 2036. All infrastructure works costs are shared between residents and workers, but workers are assumed to represent one fifth of resident demand for community, open space and recreation facilities.

2.2 Growth projections assumed in our modelling

We reviewed the DPIE and Profile.id data projections for North Sydney LGA to determine an appropriate annual average growth rate for dwellings and resident population over the next 20 years. The DPIE data was available to 2041 (20 years) and the Profile.id data to 2036 (15 years)

The growth projections are important because they greatly influence the projected income yields under the:

- CP and the development contribution reforms, and
- the rating income yield as a result of the rate peg reform (from the addition of the population growth factor).

The residential development forecasts assume an average of 720 new dwellings per year in the North Sydney LGA, which is the average annual DPIE forecast (from 2016 to 2041). By comparison, the Profile.id forecasts estimate an average of 619 dwellings per year (albeit it over a shorter, 20 year (2016-2036) period).

The number of additional workers in the North Sydney LGA each year is assumed to be 1,116 (22,320 over 20 years) based on 20,000 sqm of additional non-residential floorspace (annually) and an average of one worker per 18 sqm of GFA. This is the same annual forecast in the CP and is considered to be an optimistic forecast for employment growth. Lower non-residential yield than forecast would result in lower income for Council accordingly. Every 1,000 workers in the LGA is worth around $3.9m in contributions revenue (if accompanied by additional floorspace).

[3] NSW Department of Planning & Environment (former), *Practice Note - Local Infrastructure Contributions*, January 2019.

2.3 Income projections based on current framework

Without the reforms, we estimate that (Table 2):

1. NSC's current CP framework (with both s7.11 and s7.12 contributions) has the potential to generate $277m income in real terms over the next 20 years, or around $14m per annum on average, assuming current s7.11 contribution rates continue and the development projections are achieved. This would equate to an estimated $163 per capita each year on average.

2. Forecast revenue comprises $237m in s7.11 contributions and $40m in s7.12 contributions.

The total projected revenue would exceed the funding required for the plan works program ($181m) which is established over only 15 years, not 20. Based on our annual projected revenue forecasts, the works program could be funded within 13 years

Table 2 Contribution revenue projections by development type & plan mechanism in real terms ($2021/22), 2021/22-2040/41

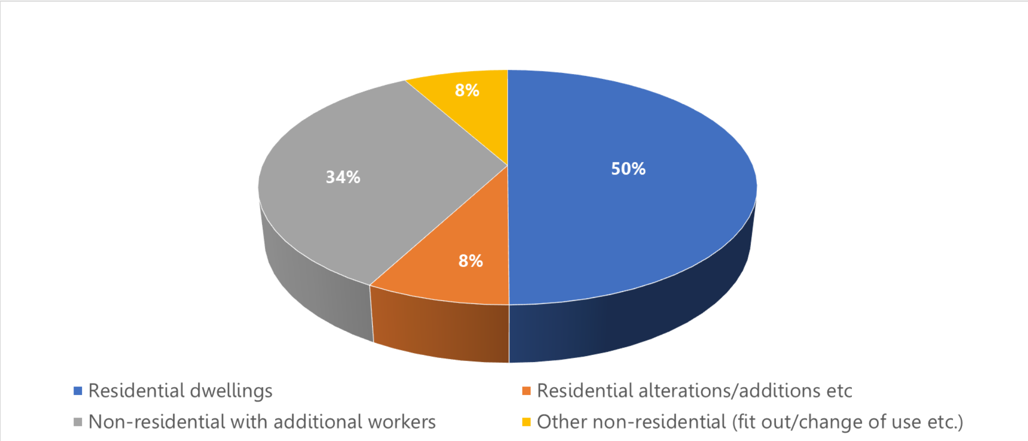
Development type	Plan mechanism	Estimated revenue over 20 years ($m)	Average per annum ($m)	Average annual increase per capita ($)
Residential dwellings	s7.11	148.7	7.4	87.4
Residential alterations/additions etc	s7.12 @ max 1%	19.2	1.0	11.3
Total residential	**s7.11 & s7.12**	**167.9**	**8.4**	**98.6**
Non-residential with additional workers	s7.11	88.6	4.4	52.0
Other non-residential (fit out/change of use etc.)	s7.12 @ max 1%	20.6	1.0	12.1
Total non-residential	**s7.11 & s7.12**	**109.2**	**5.5**	**64.1**
All development with residents/workers	S7.11	237.3	11.9	139.4
All development without additional demand	s7.12	39.8	2.0	23.4
Total development	**s7.11 & s7.12**	**277.1**	**13.9**	**162.8**

Source: *North Sydney Local Infrastructure Contributions Plan 2020* , DPIE dwelling projections (to 2041), ABS Building Approvals construction value data (2015/16 to 2019/20) and GLN calculations.

Figure 2 shows the forecast contributions under the existing contributions plan in nominal terms by development type.

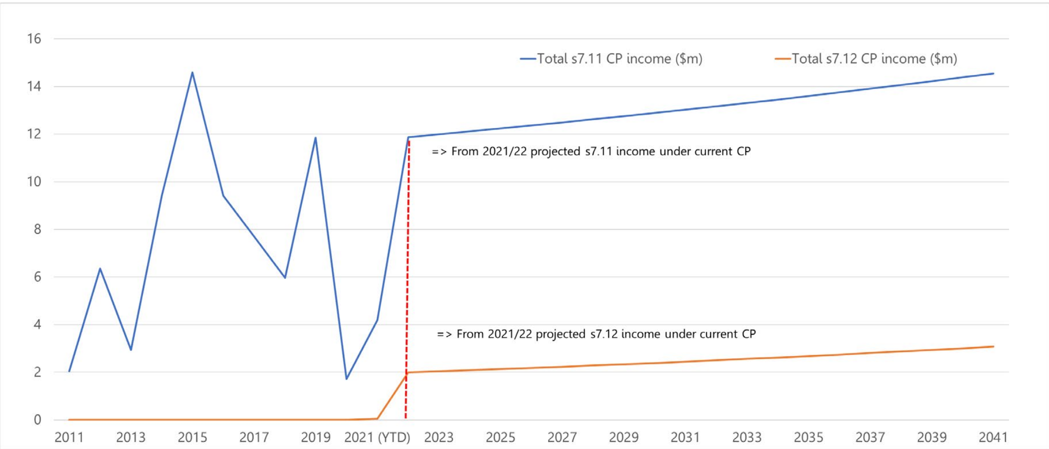
Figure 3 shows the trajectory of the projected contributions revenue (in nominal terms) following historical revenues. The projections are a linear trend based on the assumption of constant, annual development yield forecasts. Actual development contributions revenue will be more volatile from year to year, depending on actual development. S7.12 revenues start from zero as they were not levied before the new plan, which has been implemented from March 2021.

Figure 2 Forecast contributions under the existing contributions plan by development type



Source: *North Sydney Local Infrastructure Contributions Plan 2020*, DPIE dwelling projections (to 2041), ABS Building Approvals construction value data (2015/16 to 2019/20) and GLN calculations.

Figure 3 Historical contribution receipts and projected contributions (s7.11 & s7.12)



Source: Council project advice to GLN about contribution receipt history, *North Sydney Local Infrastructure Contributions Plan 2020*, DPIE dwelling projections (to 2041), ABS Building Approvals construction value data (2015/16 to 2019/20) and GLN calculations.

3 Section 7.11 reform impacts

There are significant risks to Council's projected s7.11 contribution revenue as a result of the reform recommendations, none less than:

- Recommendation 4.6 which requires "development-contingent costs" in the EWL to be established by IPART and applied to s7.11 plans.

The expectation at this stage is for further restrictions to the EWL to meet the interpretation of "development contingent works", noting the EWL already excludes community facility, indoor recreation centre and aquatics centre capital works. If the CP includes works that are not on the EWL, then they will need to come out of the plan when it is reviewed for the reforms (for implementation by 2024/25).

Recommendation 4.7 also requires IPART reviews by exception instead of when contribution rates are above the 'cap' or threshold (on the basis of removing the cap altogether, we assume at this stage). This could potentially have an offsetting positive revenue impact for councils that levy rates above the cap like North Sydney since the assessed decline in revenue compares with the existing framework, not the maximum revenue that could have been generated without the cap. This of course depends on the relative mix of essential and non-essential works in the current plan schedule.

There are also risks to the plan cost estimates which might arise from the IPART determination of benchmark costs as per Recommendation 4.5 (if these benchmarks are materially lower than Council's plan estimates).

3.1 Development-contingent works

The PC coined the term "development-contingent" works in its review and categorised them as follows:

> "This category builds on the impactor pays principle and encompasses infrastructure costs with a causal connection to a development because they would be avoided if the development did not proceed. The developer, in other words, has created these infrastructure costs because of its activities; it should therefore bear them" (PC final report, p 34).

It further stated that

> "Development-contingent costs could include, for example:
>
> - within-development open space, road, and pedestrian facilities
> - network connections for water facilities (potable, waste, and stormwater)
> - facilities shared between multiple developments, e.g., local roads and open space."

There is currently little clarity on what "development-contingent" works would be in an infill context. We consider that it is reasonable to assume at this stage that community and indoor recreation facilities would not be considered "development-contingent" because they are not essential for development to proceed and often provide benefits to the broader community. They are also infrastructure types that do not appear on the current EWL used by IPART when assessing above the cap contributions plans. Therefore, on this basis, we have assumed both capital works and land for these facilities would be excluded from the EWL.

The PC also conveyed that open space land and some base level open space embellishment would also be "development-contingent" and that even higher level open space embellishment might be reasonable in an infill context. The example provided was as follows:

> "For example, open space is generally only development-contingent when it is to a base standard of provision; higher order embellishment is a general cost. Synthetic sports fields may, however, be appropriate in areas (such as infill) where there is a shortage of land for active open space facilities—as a trade-off between quantity and quality—and not appropriate in other areas" PC final report, p 63).

CIE in its modelling of contribution reform impacts on council groupings for the State Government[4] assumed that community facilities would not be included in the EWL, thereby reducing infill s7.11 contributions by around 9.5%. It also assumed that half of open space embellishment would also be excluded, thereby reducing s7.11 contributions in infill areas by a further 11.5%. This is a total reduction to infill plans of around 21%.

Council's exposure to the risk of item or infrastructure category removal from the EWL is represented by the different shares of works in its plan, as was shown in Table 1.

Community and indoor recreation facilities together represent 31% of the North Sydney CP costs, and these costs, we have assumed, are likely to be excluded from the s7.11 plan from 2024/25.

Council is most at risk if public domain facilities are not included in the EWL with 43% of works program costs in this category. The PC did not comment on public domain facilities in its discussion about different categories of works but Council could certainly argue that such works are imperative for new development in a high density, urban context. The reasoning is similar to the PC's example about higher order open space embellishment in infill areas. We note that the CIE did not model exclusion of these types of works.

Council's works program also consists of 20% open space items. On closer inspection of the individual items, there are at least $1.5m in higher embellishment open space works (comprising grandstand seating, skate plazas and watercraft storage facilities) but this is just 4% of the total open space facilities in the plan.

Another possibility is that the EWL is based upon the demand for the facilities rather than the nature of the facilities and whether there is shared demand with existing residents. Council's current plan comprises 85% "growth-contingent" infrastructure costs which means they are wholly (100%) apportioned to the plan. Therefore, this type of approach would represent even lower risk to the plan, but not if the test were applied only to other 'essential' categories like transport or public domain facilities (with other categories excluded entirely).

[4] The CIE, *Revenue projections for changes to local government rates and local infrastructure contributions*, released with the Government's response to the PC recommendations, March 2021.

3.2 Modelling different s7.11 scenarios

At this stage, we can only speculate about the final EWL to apply to s7.11 contributions under the reforms.

We consider that the most likely scenario is that community and indoor recreation facility works and land will be removed from the EWL, at a minimum, and potentially other infrastructure which is not essential for development to proceed (including a portion of open space or public domain facilities where the demand is shared with existing residents).

We have modelled the scenario where community and indoor facilities are removed from the EWL and the associated impact on Council's projected revenue under its existing plan.

We have also modelled scenarios where open space and public domain facilities are also excluded. We have assumed in most cases that s7.12 non-demand based levies will also be exempt, but this is not certain and the issue is discussed in more detail in Section 4.

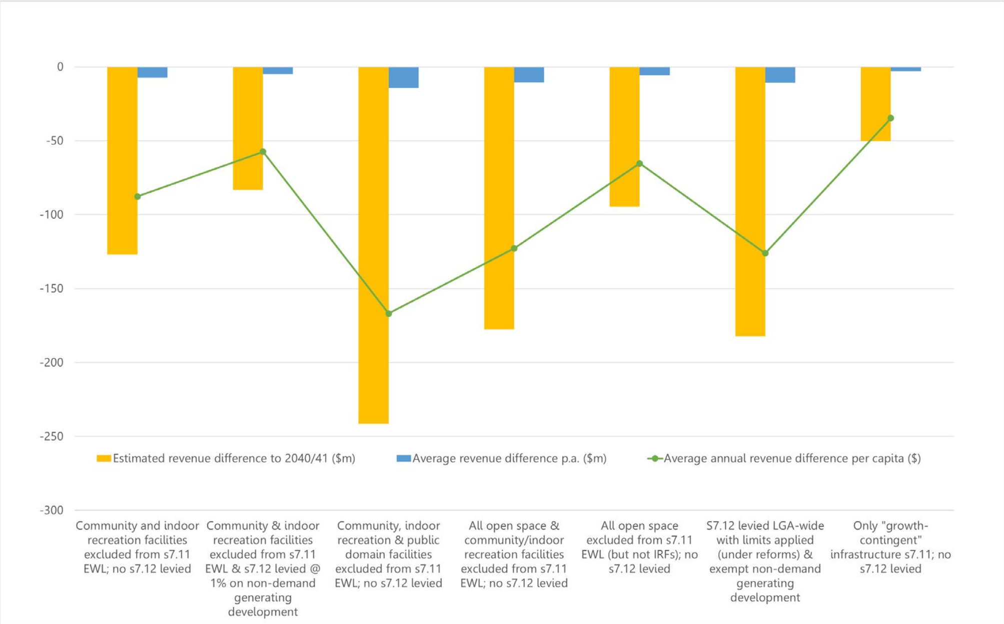
Our results in real terms are shown in **Table 3**. Our nominal results for the same scenarios (with indexation) are illustrated in **Figure 4**.

Table 3 Potential impact of s7.11 & s7.12 reforms on Council's projected revenue under different scenarios (2021/22 to 2040/21)

	Estimated revenue impact (real terms)			Compared with existing CP framework projections (real terms)		
Scenario description	Estimated revenue over 20 years ($m)	Average revenue p.a. ($m)	Average annual revenue per capita ($)	Revenue difference over 20 years ($m)	Average revenue difference p.a. ($m)	Average annual revenue difference per capita ($)
Business as usual, no reforms	277.1	13.9	162.8	0.0	0.0	0.0
Community and indoor recreation facilities excluded from s7.11 EWL; no s7.12 levied	153.3	7.7	90.1	-123.8	-7.3	-85.5
Community & indoor recreation facilities excluded from s7.11 EWL & s7.12 levied @ 1% on non-demand generating development	193.0	9.6	113.4	-84.1	-4.9	-58.1
Community, indoor recreation & public domain facilities excluded from s7.11 EWL; no s7.12 levied	50.6	2.5	29.7	-226.5	-13.3	-156.5
All open space & community facilities excluded from s7.11 EWL; no s7.12 levied	107.8	5.4	63.3	-169.3	-10.0	-117.0
All open space excluded from s7.11 EWL; no s7.12 levied	182.4	9.1	107.1	-94.7	-5.6	-65.5

	Estimated revenue impact (real terms)			Compared with existing CP framework projections (real terms)		
S7.12 levied LGA-wide with limits applied (under reforms) & exempt non-demand generating development	79.2	4.0	46.5	-197.9	-11.6	-136.7
Only "growth-contingent" infrastructure s7.11; no s7.12 levied	228.3	11.4	134.1	-48.7	-2.9	-33.7

Figure 4 **Potential impact of s7.11 & s7.12 reforms on Council's projected revenue under different scenarios (2021/22 to 2040/21) in nominal terms**



The variation of the revenue impacts by scenario demonstrates the extent of uncertainty and risk that arises from the upcoming review of the EWL and determination of "development-contingent" costs by DPIE and IPART.

Our key findings regarding the s7.11 EWL under the reforms are as follows:

3. The impact of the removal of certain facility works from the EWL, all else being equal, would reduce Council's s7.11 contributions revenue in real terms ($2021/22) by:

    a. $5m per annum or $84m from 2024/25 to 2040/41 if community and indoor recreation facility items are excluded.

    b. $3m per annum or $55m from 2024/25 to 2040/41 if open space facilities (not indoor) are also excluded.

    c. $7m per annum or $112m from 2024/25 to 2040/41 if public domain facilities are also excluded.

4. **The impact on s7.11 revenues as a result of the reforms should not necessitate a switch to a s7.12 levy for demand-generating development by NSC unless the EWL is so restrictive that projected contributions are reduced by at least 50%.**

5. **Council should seek to reprioritise its delivery of infrastructure works where possible in its current CP to adjust delivery timing of facilities which may no longer be funded by s7.11 revenue as a result of the reforms (such as community or indoor recreation facilities).**

3.3 Application of benchmark costs

The reforms will require councils to include costs in its contributions plans that are consistent with the efficient benchmark costs which are to be established by IPART. Recommendation 4.5 requires IPART to establish benchmark costs and part ii of Recommendation 4.6 requires IPART is to review the EWL and provide advice on the approach to considering efficient infrastructure costs (which are also "development-contingent" and "nexus-based" costs).

IPART already reviewed benchmark costs for the NSW Government in 2014[5] and this process demonstrated how difficult it is to establish a "one size fits all" approach to costing infrastructure across different local areas of NSW.)

These base construction costs had a range of "additional factors" to cater for traffic congestion in city areas, and long distances in regional areas, as examples, but were rarely used in this manner.

At this stage, IPART presumably has a lot more local CP infrastructure cost data based on its plan reviews to draw on for this new benchmarking task. This data is likely to be heavily skewed towards greenfield site-based infrastructure needs, not infill areas (although it has reviewed at least one 'infill' area plan).

Council staff have advised (through this assessment) that the North Sydney LGA tends to need higher standard infrastructure than average to cater for the high density, high traffic urban areas. Therefore, it is concerned that 'greenfield' cost estimates will not be adequate to cover its costs.

There is certainly a significant risk that the efficient costs, set as benchmarks, might not be adequate to cover Council's infrastructure cost needs.

PC has recommended that councils can also use 'actual costs' as evidence (PC final report, p 65) but this appears to be only for cost recoupment purposes rather than to establish the cost of a new infrastructure item.

We consider that:

6. **Where possible, Council should provide actual evidence of its infrastructure costs to IPART during its upcoming reviews of benchmark costs so that it can demonstrate the actual cost of infrastructure provision in its LGA and influence the cost outcomes.**

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[5] IPART, *Local Infrastructure Benchmark Costs – Final Report*, April 2014.

4 Section 7.12 reform impacts

As discussed in Section 2, North Sydney Council currently levies s7.12 contributions LGA-wide only on a development which cannot be charged s7.11 contributions (because it does not include net additional dwellings or net additional floorspace for non-residential development). Such development comprises alterations and additions, knockdown rebuilds, commercial fit outs and changes of use.

The reforms propose three main changes to how a council may charge s7.12 levies:

- An increase in the maximum levy percentage for residential development from 1% to 3% of development cost, which is only to apply to additional dwellings, but with associated thresholds on the total contribution that can charged - $10,000 per additional house (or townhouse or semi-detached dwelling) and $8,000 per other additional dwelling (i.e. apartment or unit);

- The maximum of 1% of the development cost is still to apply to non-residential development but with new threshold rates applied to the net increase in floorspace - $35/sqm for commercial development, $25/sqm for retail development and $13/sqm for industrial development; and

- A review to potentially exempt the levying of 'non-demand based' development, as North Sydney's existing s7.12 levy only applies to.

The PC found that "section 7.12 fixed development consent levies are a simple and certain mechanism but are less cost reflective than section 7.11 contributions. As the current maximum allowable levy is only 1 per cent of capital cost, this contribution type is best suited to areas with low infrastructure need, or when developing a 7.11 contributions plan would be too costly" (PC final report, p 9).

It also stated that "increasing the maximum levy to 3 per cent for residential development would better balance the benefit of a simple section 7.12 levy against the desirability of councils developing section 7.11 plans for areas of high infrastructure need. The maximum 7.12 levy for non-residential development should be maintained at the equivalent of 1 per cent. Better aligning with the likely infrastructure requirements of a development will eliminate a possible disincentive for capital intensive developments".

The PC explained that it considered that s7.12 levies should also only be collected to fund "development-contingent" infrastructure (PC final report, p 73), instead of the existing legislative requirement that the levy imposed on a development does not need to have any connection with the infrastructure levied for (s7.12(4) Environmental Planning and Assessment Act 1979). However, this much more stringent requirement does not appear to have been reflected in the reform recommendation (4.6), which states that the new Essential Works List will apply to s7.11 contributions plans, not s7.12 plans.

4.1 Potential revenue impact of demand-based s7.12 levy reforms

Table 4 provides a summary of our revenue estimates for the s7.12 levy under the proposed reform approach with the revenue from the maximum levy percentages (as a share of development cost) compared against the revenue from the maximum threshold rates (per additional dwelling or additional floorspace area) that have also been recommended. These revenues are in real ($2021/22) terms, such that forward revenues have not been indexed.

Table 4 Potential impact of s7.12 reforms on Council's projected revenue (2021/22 to 2040/21)

Development type	S7.12 levy or rate assumptions	In 'real' terms ($2021/22)		
		Estimated revenue over 20 years ($m)	Average p.a. ($m)	Average per capita
Residential development – additional dwellings	s7.12 @ 1% without $ contribution limit	47.8	2.4	28.1
Residential development – additional dwellings	s7.12 @ 3% without $ contribution limit	143.3	7.2	84.2
Residential development – additional dwellings	s7.12 with maximum contribution rates ($10,000 per detached dwelling; $8,000 per other dwelling)	67.2	3.4	39.5
Non-residential development - with demand (worker increase)	s7.12 @ 1% without $ contribution limit	61.3	3.1	36.0
Non-residential development - with demand (worker increase)	s7.12 with maximum contribution rates (avg $30/sqm assumed)	12.0	0.6	7.0

Source: GLN Planning, North Sydney dwelling and floorspace projections (to 2040/41) and ABS Building Approvals average construction values (2015/16-2018/19 annual average projected forward in real terms).

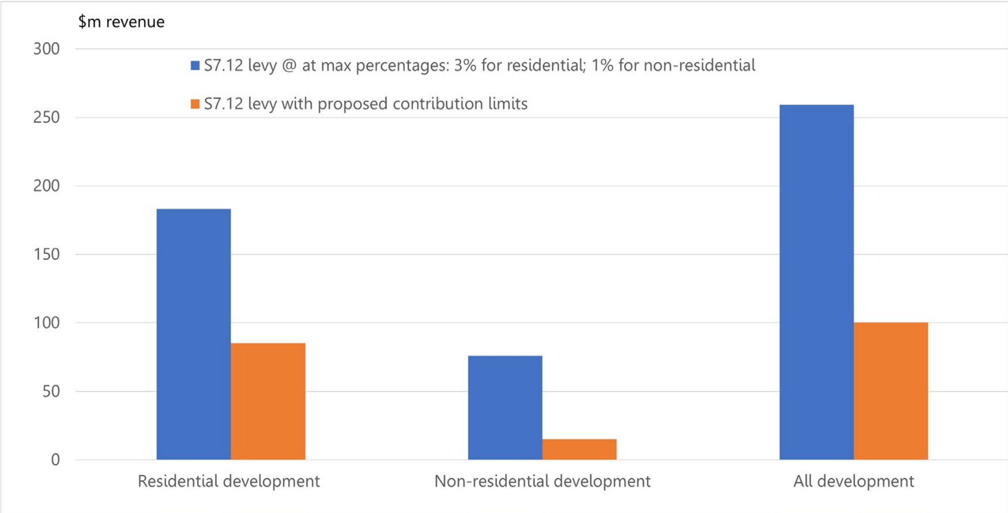
Our assessment of the revenue that could be generated by the new maximum s7.12 rates (that is, if the s7.12 levy was to be applied to demand-based development in the North Sydney LGA, instead of the current s7.11 contributions) indicates that it would be:

- Higher than the revenue that could be generated by the existing 1% s7.12 levy for residential development (by an average of $1m per annum). Nonetheless, it would be well below (by an average of $4.8m per annum) the revenue that could be generated at the maximum 3% of development cost, as proposed by the reform (**we estimate it would be around 1.4% of development cost instead of the 3% of development cost it is supposed to reflect**); and
- Significantly lower (by $2.5m per annum on average) than the revenue that could be generated by the existing 1% levy for non-residential development (**we estimate it would be**

around just 0.2% of development cost instead of the 1% of development cost it is supposed to reflect).

A comparison of the revenue that could be generated under either approach (in nominal terms, representing the projected revenue received at the end of 20 years) is shown in Figure 5.

Figure 5 Projected s7.12 revenue under maximum % levy and maximum contribution rate (per unit of development) approaches



Source: GLN Planning, North Sydney projections and ABS Building construction values.

These comparisons suggest that the reforms to s7.12 contributions would operate more as a price-limiting mechanism, at greatly reduced rates, rather than as a reasonable infrastructure charging mechanism. Therefore, it would appear to be counterintuitive to the principles stated by PC for the reforms (of simplicity and better alignment with growth infrastructure), certainly from the perspective of North Sydney.

The basis for the PC's recommended threshold residential rates is based on its observation of the median cost of construction for developments (presumably in all of NSW) in 2018/19 based on DPIE development monitoring data. We note that the DPIE monitoring data is possibly dominated by greenfield development in Sydney's growth areas rather than development in infill or established areas.

Table 5 compares these values with the average cost of construction for North Sydney for the same types of development over the past five years based on ABS Building Approval data for the LGA (and without any additional indexation applied to the PC cost estimate because the ABS PPI for residential construction was negative over the period 2018/19 to 2020/21).

Table 5 Cost of residential construction – CIE's recommended values for NSW vs North Sydney LGA values

	Cost of construction – house ('000s)	Cost of construction – other dwelling (e.g. unit housing) ('000s)
CIE's recommended value ($2018/19)	$334	$279
North Sydney 5-year average (2015/16-2019/20) ($2020/21)	$1,099	$570

Source: CIE (202) using data from the Department of Planning, Industry and Environment and Local Development Performance Monitoring data for 2018/19 and ABS Building Approvals construction value data for North Sydney LGA, 2015/16-2019/20.

The comparison shows how low the PC-recommended costs for construction are compared with the *actual* costs in the North Sydney LGA – the cost of housing construction is more than three times higher in North Sydney and the cost of other dwelling construction is more than two times higher.

We would contend that infrastructure costs are largely indicative of the costs of construction in a local area, or at the very least, heavily correlated with local building costs, and that the capacity of North Sydney and other councils to levy contributions to cover those infrastructure costs should not be restricted by a much lower estimate of those costs from other areas. Therefore, the % levy should not seek to be equated to threshold dollar rates across different areas.

4.2 Implications of demand-based s7.12 levy reforms

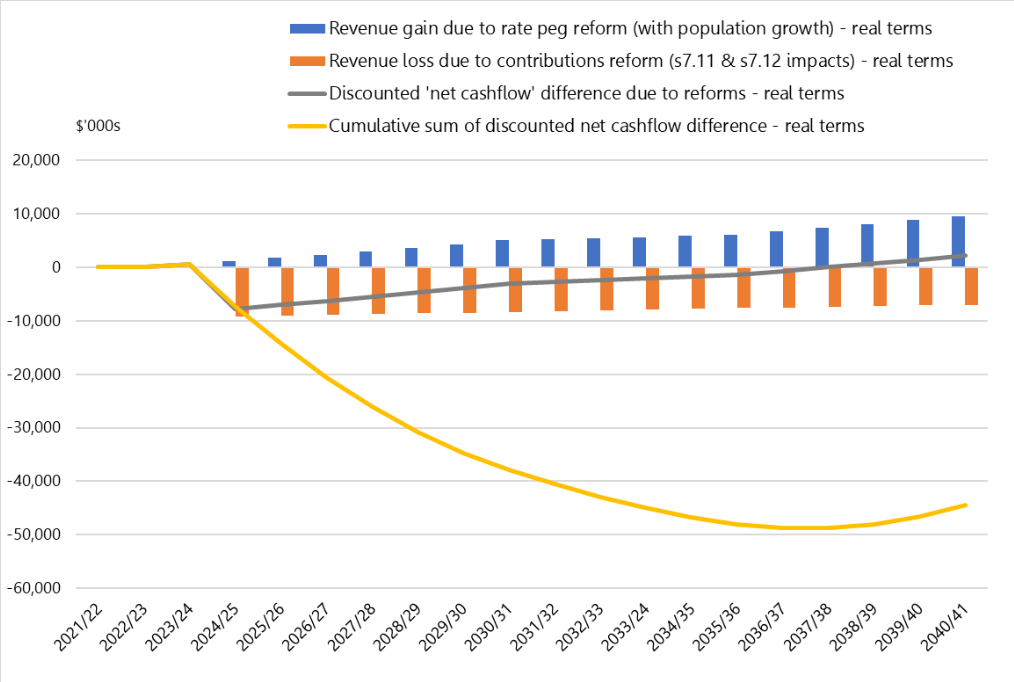
North Sydney does not currently levy demand-based s7.12 levies on either residential or non-residential development in the LGA, instead relying on an LGA-wide s71.11 mechanism.

Residential development is currently levied at the s7.11 maximum rate (without an IPART review of the plan) of $20,000 per dwelling for 3+bedroom dwellings, and $19,550 and $13,685 for 1 and 2 bedroom dwellings, respectively. For non-residential development, we have calculated the average contribution in the North Sydney CP to be around $225 per sqm of additional floorspace. Our estimate is based on the per worker contribution rates and worker and floorspace projections for the LGA. Clearly, the proposed new maximum s7.12 rates are well below these contribution levels, particularly for non-residential development.

Therefore, Council would not be affected by this change to s7.12 levies unless it is forced to consider shifting to a s7.12 mechanism. This would occur if the new 'Essential Works List' applied to s7.11 contribution plans was so restrictive that it excluded much of the infrastructure North Sydney's CP now includes (such as public domain facilities or embellishment of open space, even when nexus for the items is otherwise satisfied).

Figure 6 shows the significant negative impact that this scenario would have on Council's net revenue position in real terms (assuming non-demand based development is also exempt from s7.12 levies, as discussed in the next section).

Figure 6 **Council' projected contributions revenue if it levied proposed s7.12 'demand-based' contributions only (with rate peg reform component), compared with existing CP (s7.11 & s7.12) & rate peg revenue projections $2021/22.**



Source: GLN Planning, North Sydney dwelling and floorspace projections (to 2040/41), ABS Building Approvals average construction values (2015/16-2018/19 annual average projected forward in real terms) and PC reform recommendations.

Our findings on the proposed demand-based s7.12 levy reforms are as follows:

7. North Sydney Council would receive more revenue by continuing to levy demand-based development s7.11 contributions, rather than s7.12 levies under the reforms, *unless* the s7.11 mechanism through the EWL is effectively restricted to levels below the s7.12 maximum rates. In this case, its future contribution revenues would be significantly reduced – by $198m or 71% to 2040/41, or by an average of $12m and $137 per capita each year from 2024/25 to 2040/41 (all in real terms).

8. The maximum s7.12 rates in the reform recommendation are well below the maximum percentage charges (on development cost). The non-residential s7.12 dollar limits - purportedly representing 1% of development cost - would instead reflect about one-fifth of the existing 1% non-residential levy in North Sydney Council's case. This is not an acceptable policy outcome when workers represent a large share of demand for growth infrastructure needs in the North Sydney LGA.

9. The PC's intent of the s7.12 reforms does not appear to be met for infill council areas. It is a more complex approach with the combined percentage and threshold rates, and the maximum rates would potentially restrict revenue to a point that North Sydney Council would not be able to deliver infrastructure needs nor recover financially over 20 years, even with the population growth factor also increasing its rates income.

4.3 S7.12 levies for development that does not generate 'demand'

As stated, Council's new CP levies s7.12 contributions on development that does not generate demand for growth infrastructure such as alterations and additions, knockdown rebuilds (for residential development) or changes of use (for non-residential development).

Council has only just implemented the s7.12 levy for the first time in its new plan (from March 2021) and therefore does not have historical s7.12 receipt history upon which to guide assumptions about the expected revenue each year. We have used the ABS building approvals data to estimate the likely LGA-wide construction value from these types of development (**Table 6**). We assumed that:

- 5% of the value of residential construction (for alterations/additions only) would be exempt as low cost development not meeting the $100,000 threshold or making up a smaller levy share if estimated to cost between $100,001 and $200,000), and
- only 25% of LGA-wide non-residential development value (in total) would fall into this 'non-demand generating' category (the rest would be demand-generating or low cost development as explained above).

Table 6 Projected values of s7.12 revenue from 'non-demand based' development (2021/22 to 2040/41)

Development type	Levy assumptions	In 'real' terms ($2021/22)		
		Estimated revenue over 20 years ($m)	Average p.a. ($m)	Average per capita ($)
Residential development - knockdown rebuilds, alterations/additions etc.	s7.12 @ 1%	19.2	1.0	11.2
Non-residential development - fit outs, change of use etc.	s7.12 @ 1%	20.4	1.0	12.0

Council is projected to receive around $2.0m per annum, in real terms on average, in revenue from the s7.12 levy under its existing plan, split relatively equally between residential and non-residential development sources.

The PC did not make an explicit stand-alone recommendation regarding 'non-demand-based' s7.12 levies (that is, distinct from demand-generating development) but it did recommend in its report that the DPIE should review use of the levy for these purposes, with a view to disallowing it.

The PC final report states (p 74):

> "A section 7.12 levy can be applied to all development regardless of whether it increases demand. This has been a source of concern for development that does not generate an increase in demand for infrastructure, such as a change of use, replacement housing, and ancillary agricultural structures. While development with a construction value below $100,000 is exempt, this still captures some development that arguably does not generate

additional demand. The Department should review the applicability of section 7.12 to these types of development, particularly given the recommendation for higher percentage rates."

We do not consider that the Government would allow a 3% levy on these types of residential development; but the 1% maximum levy could still be retained for these purposes to avoid a significant revenue shortfall for councils.

The Government has also endorsed PC's recommendation to introduce a standardised exemption policy from 1 December 2021, which might include these forms of development, and potentially bring forward revenue losses if they are to occur before other contributions system reforms.

To summarise, our findings on the proposed non-demand-based s7.12 levy exemption for DPIE review, are as follows:

10. **North Sydney Council would lose an estimated $2.0m per annum in real terms, all else being equal, if the NSW Government decides to exempt non-demand based generating development from s7.12 levies. This equates to an average loss of $23 per capita each year.**

11. **The cumulative revenue losses of the proposed contributions reforms would be further increased by the exemption of non-demand-based development from s7.12 levies, This will place further strain on the general rates base to fund growth infrastructure accordingly.**

12. **The s7.12 reforms must be adjusted, phased-in or delayed (at least until the rates base has a chance to 'catch up' the revenue loss for Council) if the Government does decide to exempt non-demand-generating development from s7.12 levies.**

5 General assessment of other reform impacts

So far, our assessment has focused on four main reforms which would impact contributions revenue for North Sydney Council, along with a possible future reform possibility:

- Recommendation 4.5 for s7.11 plans to use IPART benchmark costs
- Recommendation 4.6 about development-contingent (as well as efficient and nexus-based) costs on the EWL in s7.11 plans only
- Recommendation 4.7 on the removal of IPART reviews when rates are above the 'cap' (on the basis of assuming a removal of the cap altogether)
- Recommendation 4.11 on the changes to the s7.12 levy and new maximum threshold rates for both residential and non-residential development, and
- A non-explicit recommendation for a review of s7.12 levies on non-demand-generating development (that is, alterations, additions etc.), with a view to disallowing them.

We have also adopted the recommendations regarding indexation (e.g., Recommendation 4.11) in escalating projected revenue flows under the reforms (when they are reported in nominal terms).

In general, we have found that there will be a significant negative impact to local contributions revenue for Council from the reforms, the quantum of which is dependent upon:

- The details of the reforms actually implemented, including the actual reductions to the EWL that occur for s7.11 and whether s7.12 levies exempt 'non-demand generating' development,
- The timing of the implementation of the reforms (including the different s7.11 and s7.12 changes) and when Council adopts a new, amended plan consistent with the reform requirements, integrated into its Integrated, Planning and Reporting (IP&R) framework,
- The amount and timing of development that actually occurs (to generate the income receipts from year to the next, noting the projections assume an average annual rate of development), and
- The actual population growth allowance in the rate peg (given the different options available for this).

The scope of this project has specifically omitted an assessment of the implications of the rate peg reform (for the population growth factor) and the planning agreement reforms, including the new application to out-of-sequence development only (Recommendations 3.1 and 4.12 respectively). It is acknowledged that the intention of the reform package appears to be for the loss in contributions revenue to be offset by increased rates revenue income over time.

The concurrent project which GLN is undertaking for NSROC takes into account a detailed review of the impact of the rate peg reforms on councils, as well as a critical review of the impact of all the reforms, including planning agreements. Therefore, North Sydney Council will have access to GLN's assessment of these impacts through the NSROC project outputs.

As part of this project, we have also undertaken a generalised assessment of each of the 29 reform recommendations endorsed by the NSW Government, from the perspective of North Sydney Council. This is contained in **Appendix A**.

There are a number of other proposed reforms which will still have important implications for Council. These include the other changes to the contribution payment timing (to the occupation certificate stage as is now occurring), the state-based contribution reforms which will apply to development in the LGA, and reforms which will increase administrative or compliance costs for Council, particularly in the short to medium term.

There are also a small handful of recommendations which we consider will have nil or very limited impacts on Council, as shown in **Appendix A**.

In the next few sections, we have discussed the reform timing which dictates when changes to the local contribution framework would need to occur for North Sydney Council and when it might have opportunities for consultation and advocacy regarding its position on the proposed reforms. We have also provided a summary of the key messages from our generalised assessment of the impact of each of the other reforms.

5.1 Timing of reforms

The timing of the reforms is particularly important for assessing the short to medium term revenue impacts on North Sydney Council. **Figure 7** from PC's final report shows the intended policy and legislation change timing attached to the reforms.

The PC's more detailed implementation plan also included the following advice about timing:

- The **new contributions system reforms** would commence immediately, with all relevant legislative amendments in place by 1 July 2022 such that they would be **applicable to new or revised contributions plans from 1 July 2022**
- However, councils must only review existing plans (like North Sydney's CP) by 1 July 2024, as part of the integration into the existing IP&R framework, and every four years thereafter to align with their delivery program. This means that **existing contribution plans amended for reforms would presumably need to be in operation by 2024/25 at the latest.**
- The new recommendations for **the rate peg with the population growth factor** would occur by November 2021 (noting IPART is currently undertaking a public review of this reform) with new arrangements **in place for 2023/24 rates**.
- The **new standardised exemptions policy** (for development types paying contributions) to be in place **by 1 December 2021**
- IPART's **review of the essential works list was supposed to occur by 1 July 2021. There is no publicly available information yet to suggest this review has commenced.**
- The **standard provision rates and benchmarks, based on efficient costs**, would be established by IPART by 1 July 2022 and then **apply to contributions on/after 1 July 2022**
- **IPART's review of plans 'by exception'** to occur following development of standard provision rates and benchmarks, and supposed to **apply from 1 January 2023**

Figure 7 PC's summary of the Implementation Plan

Source: PC final report, p 6.

- The **land valuation practice note to be published by end 2021.**
- The **occupation certificate stage contribution payment timing is to occur immediately** with an extension of the current Ministerial Direction until legislative change can be implemented
- The **digital tool** is to be made available **(rolled out) by mid-2022** after development during 2021 and user testing and onboarding early 2022
- **Low cost loans initiative** changes in place for **next funding round**
- There is supposed to be a**n immediate adoption of the draft planning agreement practice note**, with **updates** for the reforms in place **by 1 July 2022**
- For all new **state-based charges**, there will be a Ministerial Determinations **by 1 January 2022.**

Based on this timing, we have assumed in our modelling that:

13. **PC's implementation plan suggests that contributions reforms for North Sydney Council (with a new plan in place) would start impacting contribution revenues from 2024/25 at the latest, but rate peg reforms would start impacting rates revenues from 2023/24.**

The latter part of this finding has been reported in detail as part of the NSROC project for North Sydney Council but also included in the model output as part of this project.

S7.12 revenues for councils could be affected earlier depending on the legislative amendments.

Standardised s7.12 exemptions might also be enforced sooner, given the power of practice notes and Ministerial Directions in the system.

Regardless of the intended timing from the reforms, we believe there is merit from NSC advocating for any council contributions revenue reductions to be phased in as late as possible so that the rates base grows enough to compensate the contributions revenue loss over time.

Our net income charts (available by 'scenario' in the model and presented as specific examples in this assessment report) best show the cumulative net revenue impact on Council as a result of the combined impact of the reforms.

There is the risk that the timing of contributions revenue reductions alone could force many councils to consider requesting a special rates variation in the short term when further population growth rises are already on the horizon permanently.

North Sydney Council will complete a special rates variation in its rates base in 2021/22 and might not consider this to be a realistic option again so soon.

5.2 Delayed contributions payment timing to OC stage

PC's Recommendation 4.10 is that contribution payments be delayed until the occupation certificate (OC) stage, as currently in force for COVID-related impacts by Ministerial Direction. This suggests that the current Ministerial Direction will remain in place before the legislative amendments enforce this reform.

The deferral of contribution payments to the occupation certificate stage will continue to delay contributions on developments with a value of $10 million or more, thereby:

- Delaying the delivery of infrastructure by Council until sufficient funds are available.
- Reducing the interest accruing to contribution funds held before they are spent.

We have not modelled the impacts of this delay because the initial delays will most likely create a temporary 'clot' in the system that should eventually settle with the continued flow of funds to Council.

However, the delays will further exacerbate the short to medium term negative revenue impacts that are suggested by the reform package for North Sydney Council. Our summarised finding is that:

14. **The short to medium term negative revenue impacts of the reforms will only be exacerbated by the delay of contribution payments to the development's occupation certificate (OC) stage, which is another reason why reforms should be adjusted to reduce negative contribution revenue impacts or at the very least, be delayed or phased-in.**

5.3 Other state-based contributions

The Government endorsed PC's recommendations for a Greater Sydney Regional Infrastructure Contribution (RIC) (Recommendation 5.1) and major transport contribution charge (Recommendation 5.3).

New residential development on specific up-zoned sites in the St Leonards / Crows Nest area of the North Sydney LGA is currently subject to a Special Infrastructure Contribution (SIC). The contribution rate is $15,100 per dwelling. RICs, which are intended to apply broadly, are intended to replace SICs that apply to specific areas. The RIC rates proposed by the PC, which are intended to apply to additional floor area / dwellings are as follows:

- $12 000 per dwelling for houses (detached, semi-detached, townhouses)
- $10 000 per dwelling for all other residential accommodation
- $10 to $15 per square meter for industrial
- $20 to $30 per square meter for commercial
- $30 to $40 per square meter for mixed uses.

The transitional arrangements for existing SIC areas are not yet known.

The major transport contribution charge is only to apply to those developments (both residential and non-residential) with increased capacity as a result of major transport works. It will be set on a case-by-case basis and applied to service catchment areas. It is possible that the North Sydney metro stations might constitute projects that could incur this charge. The PC has suggested a minimum charge of $5,000 per dwelling should apply, and the revenue collected would be used to recoup some of the major transport project costs.

Therefore, apart from a few SIC-nominated sites in St Leonards and Crows Nest, these charges represent an additional impost on development in the LGA. The Government's response has emphasised the need for the charges to be feasible to development (otherwise they might not be charged to the full extent although the 'test' for this feasibility is unclear).

The overall intention of the reform package appears to be to keep the level of development charges (made up of state and local contributions) fairly neutral, if not lower overall, with the additional funding to come from the local council rates base. A quick comparison of the new proposed s7.12 residential levy for apartments ($8,000 per dwelling) given the current s7.11 cap of $20,000 per dwelling, and the new RIC for apartments ($10,000 per dwelling) perhaps makes this agenda most obvious.

From Council's perspective, it is most important that the additional state-based contributions from development within its LGA funds new state-based infrastructure projects which benefit the LGA, and do not cross-subsidise other area's infrastructure needs.

15. **The new Regional Infrastructure Contribution and Major Transport Charge will be levied on development in the North Sydney LGA, the latter only if there is an increase in development capacity as a result of major transport projects. Council must monitor the Government's future infrastructure list to be funded by these contributions to ensure that the LGA is getting its 'fair share'.**

16. **The impact on development from the new state-based charges in the North Sydney LGA appears to be offset at least partially by reduced local contributions, the extent of which will be determined with the release of further reform implementation details. The reduced funding from development contributions to Council is intended to be offset by the increase in rates revenue with the addition of the population growth factor.**

5.4 Increased administration and compliance costs

There are a range of reform recommendations which will involve increase administrative or compliance costs for North Sydney and other local councils, particularly in the short to medium term. It is also acknowledged that if the reforms are implemented successfully, then over time, there may be reduced administrative costs for councils.

A prime example is Recommendation 6.1 for a contributions digital tool, integrated with the NSW Planning Portal, which will require:

- Council and the State to make contributions plans
- the State to receive and track payments,
- reporting on contributions, including the infrastructure delivery pipeline, and
- landowners and developers to be able to estimate, calculate and pay their contributions, ideally in one payment.

This system will need to be synchronised or replaced with Council's existing contribution and/or other financial systems and councils will also need to ensure that they do not lose holding interest by delays to receiving the local contribution funds. Council will also need to inform DPIE about its current contribution information.

Some of the other reform recommendations will also carry administrative costs to council, including having to integrate the CP process into the IP&R framework and the review of its plans and charging approaches for consistency with reforms.

The remainder of our assessment against each reform recommendation is in **Appendix A**.

17. **The reforms encompass increased administrative and compliance burden for local councils in the short to medium term, particularly related to the needs of the new centralised (digitised) contributions system, the amendments to plans and the integration of the plans within the IP&R framework.**

APPENDIX A: REVIEW OF THE IMPACT ON COUNCIL FROM EACH LOCAL CONTRIBUTION REFORM

	Reform recommendation (Government accepted)	Council impact assessment
2.1	**Enhance efficiency of the infrastructure contributions system** Implement reform to deliver an efficient infrastructure contributions system so: • local contributions are cost-reflective charges on impactors, applied through a consistent framework but with flexibility for adaptation to local circumstances • State contributions are simple and certain charges on impactors and beneficiaries of State service delivery.	Efficiency of the infrastructure contributions system is beneficial to North Sydney Council and its community, in principle. Local contributions should already meet a reasonableness test for cost-reflectivity (as per s7.11 of the EP&A Act). Thus, any reforms which seek to enhance cost reflectiveness by limiting charges to direct 'impactors' only (rather than 'beneficiaries' of growth infrastructure) or to perceived 'efficient costs' (which are lower than the actual cost of provision) are likely to reduce contributions revenue for Council and its community. It is critical that local contributions are flexible for adaptation to local circumstances. Consistent with this theme, the reforms need to cater for the specific needs of infill areas (as in the North Sydney LGA) regarding community infrastructure, as well as greenfield sites.
3.1	**Allow councils' general income to increase with population** Subject to review by the Independent Pricing and Regulatory Tribunal, reform the local government rate peg to allow councils' general income to increase with population.	The impact of the rate peg reforms is outside the scope of this project but the modelling project that GLN Planning is also undertaking for NSROC will include a review of these impacts for North Sydney Council. In general, the reform impact should result in additional revenue for councils with positive population growth over time. The cumulative impact on ratepayers, however, is unlikely to be sustainable or politically acceptable should there be a maximum increase in rates each year (aligned to population growth). The challenge for Council will be to recoup costs for growth infrastructure from the ratepayers who benefit from the infrastructure most, through the levying of different and potentially 'special' rating categories.

	Reform recommendation (Government accepted)	Council impact assessment
4.1	**Develop infrastructure contribution plans upfront as part of the zoning process** Amend legislation to require: • where land is being rezoned, the draft infrastructure contributions plan must be publicly exhibited at the same time as the planning proposal. • adoption of the infrastructure contributions plan before any determination is made on a development application. The NSW Government noted that: "Consideration will be given to managing the time taken for councils to adopt contributions plans, which would otherwise unreasonably delay the rezoning of land."	It is assumed that this recommendation will mostly impact LGAs with greenfield sites, ensuring that contributions planning is undertaken at the rezoning stage, rather than months or years afterwards. Where this applies to infill areas (with rezoning of urban renewal areas, for example), the reform should increase certainty for councils and developers about the cost of infrastructure. In order to develop the contributions plans with the rezoning process, councils will be reliant on accurate and timely information about proposed zones, the associated infrastructure list, including that which is state-funded infrastructure (e.g., major roadwork), and forecast development yields.
4.2	**Introduce a direct land contribution mechanism to improve both efficiency and certainty for funding land acquisition** i. Amend legislation to introduce a direct land contribution mechanism to: • apply a statutory charge on the land at the time of rezoning that requires land contribution be made • require the contribution on sale of the land, or subdivision development application, whichever comes first • allow the contribution to be satisfied as a monetary payment, or dedication of land.	It is unclear how the direct land contribution will work in infill contexts since councils will need to be specific about acquisitions and this is not desirable in many infill cases. Councils are more likely to negotiate acquisitions through negotiation with developers of key sites. The cost of infrastructure in the *North Sydney Local Contributions Plan 2020* includes only 1% for land acquisition. Given the scarcity and high cost of land in North Sydney LGA, Council is unlikely to seek to acquire large amounts in the future for its growth infrastructure needs and will presumably continue to look for ways to enhance the quality and useability of existing open space and other infrastructure facilities. The reform recommendation purportedly incorporates a redistribution of costs from the developer to the landowner. Should North Sydney Council need to

	Reform recommendation (Government accepted)	Council impact assessment
	ii. Consult with key stakeholders from councils and industry in the design and implementation of a direct land contribution mechanism. The NSW Government noted that "A case study (would) be prepared in consultation with the External Advisory Group."	acquire land for a renewal area as a result of rezoning in the future, in principle, this recommendation should reduce the risk of acquiring land at a much inflated cost from landowners post-rezoning.
4.3	Issue advice for land valuation to improve consistency and accuracy Develop a practice note, in consultation with the Valuer General, to guide land valuation, including assumptions and methodology, particularly for land that is yet to be rezoned and may be constrained	Noting the negligible impact on Council specifically (for the reasons noted above), this reform should better inform the land valuation process in the context of estimating the cost of land acquisition requirements for contributions plans. Accordingly, there should be reduced risk for both councils and developer in this process.
4.4	Index land contribution amounts to changing land values i. The Valuer General prepare a methodology and publish appropriate land value indices. ii. Amend legislation to require new contributions plans to separately identify and escalate land contribution amounts by the appropriate index The Minister to direct councils to separately identify and escalate land contribution amounts by the appropriate index when reviewing contributions plans	This reform should be beneficial for councils in that it seeks to better align the land acquisition cost estimates in a contributions plan with changing land values over time. However, for North Sydney Council, it would be relatively complex and burdensome to index just 1% of the costs of the plan by a separate index in its plan. The practicality of this recommendation will ultimately be determined by how streamlined and accommodating to such cases the new (more digitised and centralised) contributions planning system becomes.
4.5	Section 7.11 contribution plans use benchmark costs Independent Pricing and Regulatory Tribunal to develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient cost of provision.	Infrastructure costs will vary considerably from greenfield to infill area sites and Council staff have advised that costs in the North Sydney LGA can be higher due to the extent of infrastructure requirements for highly urbanised, densely populated areas.

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	Reform recommendation (Government accepted)	Council impact assessment
		If the benchmarks costs are set at below the actual infrastructure delivery costs for North Sydney Council, this could result in increased expenditure pressure for Council and/or delays or reductions to infrastructure delivery. The PC report had noted that actual costs could also be used to inform cost estimates in a plan (p 65) but the requirements for compliance are unclear at this stage. Regardless, it is imperative for Council to consult with IPART when it is developing the benchmark costs and provide sufficient cost evidence to support the case for the benchmarks to reflect the delivery costs in its LGA. Otherwise, there is the risk that local infrastructure capex would need to be further subsidised by the rates base, potentially beyond the intent of the reform package.
4.6	**Contributions plans reflect development-contingent costs only** i. Apply the essential works list to all section 7.11 contributions plans. ii. IPART to review the essential works list and provide advice on the approach to considering efficient infrastructure design and application of nexus. iii. Subject to review by the IPART issue a revised practice note. The NSW Government responded: "DPIE and IPART to work together to interpret 'efficient infrastructure design', particularly as it relates to greenfield development and land use planning to support creation of liveable and resilient communities."	All s7.11 contribution plans will need to include only 'Essential Works' which is different to the current policy whereby only plans 'above the cap' must have 'Essential Works' only. The potential impact to North Sydney Council as a result of only essential work list (EWL) items appearing in s7.11 plans could be considerable, depending on what the final EWL will comprise. Council's new plan includes the current mix of facilities and associated costs in the plan: • Public domain facilities $79m or 43% of plan costs. • Open space $36m or 20% of plan costs. • Indoor recreation facilities (including aquatic centres) $43m or 24% of plan costs. • Community facilities $16m or 9% of plan costs.

	Reform recommendation (Government accepted)	Council impact assessment
		• Active transport facilities $4m or 2% of plan costs. Most of the costs (some 85%) are considered 'growth infrastructure' items in the plan, such that costs are not apportioned to existing residents (by way of the rates base), just development. Therefore, if a similar test was to apply to the criteria for 'development-contingent' infrastructure, then the impact on North Sydney's contributions plan revenues could be relatively limited. However, it was mooted in the PC report that some 'social infrastructure' items such as community facilities, recreation centres and libraries should not be classified as 'development-contingent' in any circumstance and should be instead funded through the rates base. Exclusion of social infrastructure items (from the EWL) would have a significant impact on Council's contributions revenues. Exclusion of public domain facilities from the EWL would have an even greater impact, given the high share of these facility costs in the plan. We have quantified the impact of excluding these infrastructure categories from the s7.11 EWL for North Sydney Council as part oof this project. However, at this stage, there is no clear indication as to what infrastructure items will be excluded from the EWL.

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	Reform recommendation (Government accepted)	Council impact assessment
4.7	**IPART review of contributions plan be 'by exception' and based on efficient costs** i. Remove the monetary trigger for review of contribution plans by IPART. ii. Develop Terms of Reference for the IPART to review any costs in a section 7.11 contributions plan on a 'by exception' basis with the option of a 'targeted' review of specific sections of a plan. iii. Prepare a practice note to reflect the 'by exception' review process and requirements for local contributions plans.	With the new 'by exception' rule for IPART review of plans, there will be reduced administration costs for councils that would have needed to submit plans to IPART but no longer need to. North Sydney Council, however, implements a plan with non-essential community infrastructure (such as an aquatic centre) and limits its residential contributions (to $20,000 per dwelling) such that it has not been required to submit it to IPART for assessment to date. To ensure efficiency, the 'by exception' process needs to be for rare occasions only, where there are significant concerns about the impact or feasibility of a contributions plan, rather than simply on request of a developer, for example. The broader impact on council revenues is also very much determined by whether the removal of the monetary trigger for a review of contributions plans by IPART also represents the removal of any limits on s7.11 contributions (assuming they also meet the other proposed tests for efficient, development-contingent infrastructure costs).
4.8	**Contributions plans are prepared using standard online templates** i. Develop standard online contributions plan templates for section 7.11 local contributions and section 7.12 fixed levies. ii. Amend legislation to require new contributions plans to be made using the standard templates and housed within the contributions digital tool to be developed on the NSW Planning Portal. iii. Require contribution plans upon review to transition to the new digital tool.	These initiatives should reduce the administrative costs to Council from developing a contributions plan and implementing payments from developers, although it is expected that there will be short term administration costs from transforming plans to the new templates and tools.

	Reform recommendation (Government accepted)	Council impact assessment
4.9	**Encourage councils to forward fund infrastructure, through borrowing and pooling of funds** i. Amend legislation to allow: • pooling of contributions funds as the default option • interest costs associated with borrowing for infrastructure to be collected through contributions plans. ii Incentivise councils to borrow to forward fund infrastructure, including by: • Treasury Corporation reviewing their lending criteria to consider allowing capital grants and contributions (including infrastructure contributions) to be included in debt serviceability calculations where contributions relate specifically to the project for which council is seeking funding • establishing a program to provide an additional financial incentive when councils borrow to build infrastructure.	Pooling of funds for infrastructure needs is standard practice among local councils. Interest costs recoupment for infrastructure loans is not authorised by law but is also common practice in contributions plans. There can be clear benefits to the community from forward funding infrastructure by Council borrowing or pooling contribution funds. However, lending must still be in accordance with Council's Loan Borrowing Policy[6] which has specific criteria for loan funding. All else being equal, the cost of infrastructure will also be increased by the loan due to the interest costs. If Council took out a loan to fund growth infrastructure for $10m over 15 years at a rate of 2% with monthly repayments, it would still pay more than $1.5m in interest alone over this period. This is in a low-interest environment. For infrastructure loans to be feasible for local communities, the State Government should continue to provide subsidised loan costs.
4. 10	**Defer payment of contributions to the occupation certificate stage** i. Extend permanently the Environmental Planning and Assessment (Local Infrastructure Contributions – Timing of	The deferral of contribution payments to the occupation certificate stage will delay contributions by up to two years in some cases, thereby: • Delaying the delivery of infrastructure by Council until sufficient funds are available.

[6] This Policy is being reported to Council on 24 May 2021, seeking to replace the current Debt Management Policy.

	Reform recommendation (Government accepted)	Council impact assessment
	Payments) Direction 2020 that was introduced as a temporary measure in response to the COVID-19 pandemic. ii. Design the NSW Planning Portal so that the release of occupation certificates is contingent upon payment of infrastructure contributions. iii. Increase oversight of private certifiers by requiring that the certifying authority must confirm payment of contributions before issuing an occupation certificate. Amend legislation to create an offence should certifiers issue a certificate without an infrastructure contribution payment.	• Reducing the interest accruing to contribution funds held before they are spent. However, the initial delays will most likely create a temporary 'clot' in the system that should eventually settle with the continued flow of funds. The contingent release of occupation certificates upon payment of contributions including for CDCs, should increase compliance for contribution payments. But the system needs to be failsafe so that the community is confident that payments are being used.
4.11	**Increase the maximum allowable rate for section 7.12 fixed development consent levies** i. Amend the maximum rate for section 7.12 contributions as follows: • $10,000 per additional dwelling for houses (detached, semi-detached, townhouses) • $8,000 per additional dwelling for all other residential accommodation • $35 per square metre of additional GFA for commercial uses • $25 per square metre of additional GFA for retail uses • $13 per square metre of additional GFA for industrial uses. ii. Index contribution rates quarterly using the Producer Price Index (Road and Bridge Construction – NSW) and review periodically (approximately every three to five years) to ensure they remain in line with the intended proportion of development costs.	If North Sydney Council decided to levy new development s7.12 levies instead of s7.11 contributions, the impact from this recommendation would most likely be negative because: • The contributions limits on residential development do not represent 3% of the likely construction value of the developments in North Sydney (more like half). • The contribution limits on non-residential development are also well below the existing maximum levy of 1% of construction value (instead only around 20% of the value). Council currently levies s7.11 contributions but if there are enough significant changes to the EWL then it is possible that it might prefer to levy s7.12 levies instead. It was also suggested in the PC report that an s7.12 levy exemption for non-demand generating development (i.e. alterations, additions, change of use, conversions etc.) was advisable in principle (since no demand was being created for growth infrastructure from the development) but that the implementation of such a policy be the subject of further review by the NSW Government .

	Reform recommendation (Government accepted)	Council impact assessment
	The NSW Government responded that "Final rates subject to confirming the charging methodology" which suggests there will be opportunities for further consultation on the reform and limits that have been set.	We estimate that s7.12 levies for these types of development will generate an average of around $2m p.a. in real terms or $2.5m p.a. in nominal terms over the course of the plan. Therefore, this additional exemption would have a significant impact on North Sydney Council's contribution revenues, and at the very least, should be phased in after additional rates revenue (for the population growth factor in the rate peg) is sufficient to offset the revenue loss.
4.12	**Planning agreements consistent with the principles-based approach** i. Adopt the Draft Planning Agreements Practice Note 2020 and EP&A Regulation amendments exhibited by the Department in April 2020 to provide immediate improvements to the operation of planning agreements. ii. Amend the practice note to embed the principles of the contributions system so that planning agreements are: • for the delivery of infrastructure to support development that is out-of-sequence or unexpected. • to facilitate the direct delivery of development-contingent infrastructure or impact mitigation works. iii. Amend the legislation to require planning authorities to: • register planning agreements and draft planning agreements in a centralised system, contained within the NSW Planning Portal. 'publicly exhibit' rather than 'publicly notify' planning agreements, including requirements to receive and consider public submissions.	The reforms seek to limit planning agreements for local infrastructure to 'out of sequence' development and 'development-contingent' infrastructure or impact mitigation works only. It could be argued that many agreements in urban areas like North Sydney would be considered 'out of sequence', since sequencing is more relevant to greenfield development areas. But the requirement for proposals to only cover 'development-contingent' or 'impact mitigation' works, similar to the proposed requirements for s7.11 plans, could significantly limit the application of planning agreements. Planning agreements entered into by Council have provided for material public benefits to the community (including affordable housing), as agreed by a developer, and not just 'development-contingent' works. The implication of this restricted revenue source is that these 'benefits' will either not be provided at all or will need to be funded by the rates base or alternative contributions under Section 7,2. Discussions with key stakeholders (including DPIE) suggest that It is unclear whether or not the recommendation to restrict the application of planning agreements to this extent will be progressed.

	Reform recommendation (Government accepted)	Council impact assessment
4.13	**Publish guidelines for planning agreements for mining and energy related projects consistent with the principles-based approach** Publish a guideline for mining and energy related projects consistent with the principles-based approach, so that planning agreements primarily relate to direct delivery of development-contingent infrastructure.	This reform is unlikely to be relevant to Council.
4.14	**Improve accountability for affordable housing contributions** i. Require affordable housing contributions received through section 7.32 contribution mechanisms and planning agreements be reported by councils, including: • the amount of monetary contributions received • the value and location of any in-kind provision, both works and land • expenditure of monetary contributions • transfer and management of assets. Undertake a future evaluation of section 7.32 affordable housing contribution programs to determine their effectiveness and efficiency.	This will increase compliance costs for North Sydney Councils in accordance with the increased reporting requirements for affordable housing.
5.1	**Adopt regional infrastructure contributions** i. Prepare and implement state contributions for Greater Sydney, Central Coast, Hunter, and Illawarra-Shoalhaven regions. ii. Greater Sydney region charges (subject to no substantial impacts on feasibility) as follows:	The main outcome of this reform, in combination with other reforms to local contributions, is that there is a redistribution of monetary contributions from local councils in the affected regions, to the State Government. Even with the new charges in infill areas of Greater Sydney, the net impact on developers could still be relatively low with commensurate reductions to local

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	Reform recommendation (Government accepted)	Council impact assessment
	• $12 000 per dwelling for houses (detached, semi-detached, townhouses) • $10 000 per dwelling for all other residential accommodation • $10 to $15 per square meter for industrial • $20 to $30 per square meter for commercial • $30 to $40 per square meter for mixed uses. iii. Central Coast, Hunter and Illawarra-Shoalhaven region charges (subject to no substantial impacts on feasibility) as follows • $10 000 per dwelling for houses (detached, semi-detached, townhouses • $8 000 per dwelling for all other residential accommodation • $10 to $15 per square meter for industrial • $20 to $30 per square meter for commercial • $30 to $40 per square meter for mixed uses. iv. Governance arrangements and criteria for infrastructure projects to be established. The NSW Government noted that: "Savings and transitional arrangements for SIC determinations made prior to 1 July 2022 (are) to be determined." "Final rates (are) subject to confirming the charging methodology" and "Allocation methodology (is) to be confirmed."	contributions (e.g. from a s7.12 levy cap of $10,000 per dwelling or from a reduced Essential Works List for s7.11 contributions). Without a commitment by the State Government to provide increased funding towards community infrastructure in North Sydney and other LGAs, the impact in the short to medium term at least is likely to be reduced revenue and therefore, lower local infrastructure provision for communities.
5.2	Improve guidance for State planning agreements	No direct impact on Council.

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	Reform recommendation (Government accepted)	Council impact assessment
	Publish a guideline for State planning agreements to ensure they: • support out-of-sequence development in areas not supported by special infrastructure contributions plans, or • facilitate the direct delivery of development-contingent infrastructure.	
5.3	**Adopt transport contributions for major projects** i. Prepare and implement a transport contribution for major projects that: • is additional to regional infrastructure contributions, where these apply • applies to properties within a service catchment and is subject to additional development capacity created as a result of the investment. ii. Contribution charges should be established for residential and non-residential uses. A minimum charge of $5,000 per dwelling should be applied, with Transport for NSW required to apply higher charges where costs and benefits are relatively higher.	This contribution is intended to be paid by new development benefiting from new public transport projects. This type of contribution could potentially impact development within the vicinity of the new Metro stations in North Sydney, should such a charge be implemented on development in the vicinity of these stations. The charge would reduce the feasibility of payment of local infrastructure contributions for these developers, as it is proposed to be in addition to new broad-based regional infrastructure contributions and local contributions.
5.4	**Create a new category of contributions plan specific to biodiversity** i. Create a new contribution category under Part 7 of the EP&A Act for biodiversity offsets.	North Sydney is a small, highly urbanised LGA without areas subject to biodiversity certification.

	Reform recommendation (Government accepted)	Council impact assessment
	ii. Prepare and implement a biodiversity contribution for areas subject to biodiversity certification.	
5.5	**Phase in metropolitan water contributions for more efficient delivery of water infrastructure** i. Rescind the 2008 Section 18 Direction that approved zero developer charges for water, wastewater and stormwater services for Sydney Water and Hunter Water. ii. Direct Sydney Water and Hunter Water to reintroduce water charges and include provision for: • the approach to phase-in, and • exemptions for development completed prior to 1 July 2026. iii. Establish a service level agreement for Sydney Water and Hunter Water for expenditure of water charges funding.	These charges are unlikely to be imposed on development in North Sydney LGA.
6.1	**Develop and implement a centralised contributions digital tool** i. Develop a contributions digital tool in the NSW Planning Portal, integrated with the spatial mapping and development application system, which requires: • councils and the State to make contributions plans • receive and track payments • report on contributions spending, fulfill accounting requirements, and report on the infrastructure delivery pipeline • landowners and developers to estimate, calculate, and pay their infrastructure contributions for both local and state infrastructure in one place, ideally in one payment.	The digital tool development costs will be limited for councils if it is fully implemented and funded by the NSW Government. However, it is likely that there will still be short term costs for councils in providing the information requirements for this new system and ensuring that its own systems also comply with the centralised system. Council should advocate for funding from the State Government should material costs arise in synchronising its systems with the new tool.

	Reform recommendation (Government accepted)	Council impact assessment
	ii. Amend legislation to support the digital tools and require their use to be phased in.	There could also be ongoing compliance costs to Council if it needs to provide continual updates on the status of the infrastructure delivery pipelines for development areas in the LGA. Council should seek to ensure that local contribution funds are directly transferred to it with minimum delay, otherwise there will be reduced interest accruing to the payments before it spends the funds on infrastructure. It is important that the centralised system also properly cater for CDC contributions payment compliance (via private certifiers) so that councils can also track these payments efficiently.
6.2	**Promote consistency and transparency in works-in-kinds agreements** Develop a practice note to guide efficient and consistent use of works-in-kind agreements.	North Sydney Council's contributions plan provides for works in kind and land dedications as payment for development contributions if certain conditions are met. The conditions ensure a level of consistency and transparency regarding when such proposals are accepted, and the associated obligations of developers. Council reserves the right to accept offers and it is envisaged that this right will remain with the additional guidance from State Government on the usage of these agreements. It is unknown the degree to which Council's WIK practices will be consistent with the Practice Note however, there are unlikely to be significant impacts for Council from this reform.
6.3	**Build the capability and expertise of the planning sector** i. Create and maintain consolidated guidance material for each contribution mechanism that reflects up-to-date information and integrates with the digital tool.	Assuming that the guidance material, training and professional development program is to be funded by the NSW Government, the impact for North Sydney Council should be beneficial.

	Reform recommendation (Government accepted)	Council impact assessment
	Implement a training and professional development program to support planning practitioners and build a knowledge sharing culture within the planning system.	Such initiatives should result in increased knowledge, awareness and capability for its planning and development contributions staff.
6.4	**Introduce a simple, clear, centralised exemptions policy** Produce a simple, clear, standardised exemptions policy, underpinned by guiding principles, to ensure a consistent and transparent application of exemptions.	There will be an impact on North Sydney Council from this reform if it is forced to exempt development from contributions that it currently levies. This might, for example, include non-demand generating development such as knockdown rebuilds and alterations and additions (for residential development) or change of use or fit outs (for non-residential development) which are currently levied s7.12 contributions under its contributions plan. Currently, North Sydney's contributions plan exempts: • Development exempted by way of a direction made by the Minister for Planning. • Development with the cost of $100,000 or less (except secondary dwellings which have a net increase in residents on the land). • Development associated with providing infrastructure funded by s7.11 or s7.12 contributions. • Development where a contribution has previously been paid for the same development at the subdivision stage • Places of public worship and childcare centres by or on behalf of a charity or not-for-profit organisation. • Affordable housing or social housing by a social housing provider. • Government schools. • Development proposed by or on behalf of the Council for the provision of public infrastructure. The impact on North Sydney Council is unknown until the Exemptions Policy is exhibited.

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	Reform recommendation (Government accepted)	Council impact assessment
6.5	**Better synchronise State and local strategic planning frameworks** i. Amend legislation to update the review timeframes of Local Strategic Planning Statements to five years, in line with other State and regional plans. ii. Issue a Ministerial direction extending the regional implementation plan timeframe to cover a 4-year period to align with councils' delivery program.	The requirement for a review of the Local Strategic Planning Statement to five years rather than seven years is logical and should have limited impact on Council. It also makes sense for the regional implementation plan timeframe to cover a 4-year period to align with a council's delivery program.
6.6	**Incorporate the local infrastructure contributions system into the Integrated and Performance Reporting Framework** Update the Integrated and Performance Reporting guidelines to require councils to: • include infrastructure contribution plans in their reporting • review their infrastructure contributions plans by 1 July 2024, and every four years thereafter (or earlier if required), to align with their delivery program.	These requirements will increase administrative costs for Councils, particularly in the first IP&R cycle that it applies to. Thereafter, it should reduce overall strategic and contributions planning costs for councils by reducing duplication and inefficiencies and improving consistency within the overall planning and reporting framework.
6.7	**Strategic planning to maximise the efficient use of land** i. Issue a Ministerial Direction to require planning proposals to demonstrate consideration of efficient use of land, including opportunities for dual-use and joint-use. ii. Develop a practice note to establish performance-based benchmarks for open space planning.	Council must already maximise efficient use of land in North Sydney Therefore, this reform is likely to just increase the administrative compliance costs for Council when undertaking planning proposals for community infrastructure needs.

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	Reform recommendation (Government accepted)	Council impact assessment
	The NSW Government noted that "Consideration will be given to creation of liveable and resilient communities and ensuring quality outcomes."	Performance-based benchmarks for open space should inform planning but should not replace Council's own policies on open space provision for its communities.
7.1	Strong governance to guide implementation Establish an Implementation Steering Committee to oversee implementation of the reforms.	No direct impact on Council.

APPENDIX B:

APPENDIX C: SAMPLE

C.1:

APPENDIX D:

D.1:

APPENDIX E:

E.1:

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9 July 2021

The Hon. Cate Faehrmann MLC
Chair, Parliamentary Inquiry into Infrastructure Contributions Reforms
By email

Dear Ms Faehrmann

RE: Parliamentary Inquiry into Infrastructure Contributions Reforms

I refer to the Upper House inquiry into proposed amendments to the Environmental Planning and Assessment Act, 1979 as part of the NSW Government's broader reforms to the infrastructure contributions system which are due to be implemented and in place by 1 July 2022.

North Sydney Council commissioned consultant planners GLN to undertake a detailed assessment of the impacts of the infrastructure reforms currently being considered. GLN's report (attachment 2) identifies that the impact of these reforms on North Sydney Council will be enormous. The most likely scenario will represent a $7.3m annual revenue reduction or $124m between 2024/24-2040/41. This represents a 45% reduction in infrastructure funding for Council. Subject to the ultimate definition of "essential infrastructure", the loss of revenue may be further exacerbated. If public domain is excluded it will increase to a loss of $11.4m per annum or $226m over the period of the plan.

Council is responsibly managing population, housing and employee growth. Fundamental to this, is the ongoing need to sustain such growth with the corresponding level of infrastructure provision. Council's program of infrastructure works that are planned in the medium and longer term, however, may have to be reconsidered, reduced or abandoned, given the enormous income reduction that the current reforms represent. The community's resistance to implementing such growth in already high-density environments like North Sydney's, will only be exacerbated by the significant reduction in Council's capacity to deliver complementary infrastructure that seeks to ensure current levels of amenity and standards of living are not systematically eroded.

The ongoing challenges faced by local government to fund and maintain local infrastructure are well documented. The commitments made by Council to its community through its Community Strategic Plan, and in particular, the ways in which growth will be managed and its impacts ameliorated, will need to be reviewed given the dramatic reductions in infrastructure funding that will need to be absorbed in the coming years.

Significantly, the proposed reforms will shift the cost burden of new infrastructure from developers to existing communities. Any notion that the draft reforms are designed to improve housing affordability simply do not hold true.

It is widely acknowledged that development contributions represent a finite source of infrastructure funding. It is therefore disappointing that at the same time that Council's capacity to levy development contributions is being significantly reduced, the NSW Government is introducing the new regional infrastructure levies on development.

The collection of such contributions by the NSW Treasury is fundamentally contrary to the notion of the clear nexus between contributions collected and infrastructure expenditure that local contributions plans have been delivering for decades. This change introduces a level of opaqueness in a contributions system that is currently characterised by high levels of transparency by local government.

North Sydney Council supports the principle of reviewing and modernising the current infrastructure charges regime, however the current proposal perversely establishes a disincentive against development, creates a cost shift of the impact of development from developers to the existing community and ultimately applies upward pressure on the cost of home ownership.

Yours sincerely

Ken Gouldthorp
GENERAL MANAGER

Attachments:

1. Submission – Infrastructure Contribution Bill
2. Local contributions reform impact review (GLN 2 July 2021)

Attachment 1 - Submission – Infrastructure Contributions Bill

This submission is made on behalf of North Sydney Council.

1. Background

1.1 North Sydney Council - Current Local Infrastructure Contributions Plan

Council endorsed a new Local Infrastructure Contributions Plan (LIC) in November 2020 which came into effect on 1 March 2021. The Plan was formulated pursuant to the provisions of the Environmental Planning and Assessment Act and is a combination section 7.11 (nexus based) and 7.12 (flat rate) Plan. The North Sydney LIC represents a total works program of **$410M** of which **$181M** will be funded by the Plan over its 16-year life span.

1.2 Planning for Growth

The strategic planning regime introduced by the Greater Sydney Commission (GSC) in 2018 that provides a "clear line of sight" between higher order strategic directions through the Regional Plan and North District Plan and local level planning and implementation, have been diligently applied and executed by North Sydney Council. Housing, population and employment growth targets and objectives, have been responsibly and consistently implemented at the local level by Council.

There is a direct relationship between growth in a highly established area like North Sydney and the need to sustain such growth with the provision of public infrastructure to ensure that amenity and quality of life standards are maintained. The North Sydney LIC identifies growth of 720 residential dwellings and 1,116 new workers per annum and the infrastructure works program plans for, reflects and sustains this level of growth with the funding of open space, recreation facilities, community facilities, public domain improvements and transport infrastructure.

1.3 The Current Review

North Sydney Council engaged GLN planning consultants to undertake an assessment of the potential impacts of the proposed reforms upon Council's capacity to levy development contributions and subsequent impact on the capacity to fund public infrastructure. The full analysis and assessment conducted by GLN is attached for the information of the Inquiry.

It is acknowledged that assumptions were made by Council and GLN in preparing an analysis of the reforms currently being considered. The draft Bill defers critical matters of detail to Regulation for Ministerial Direction.

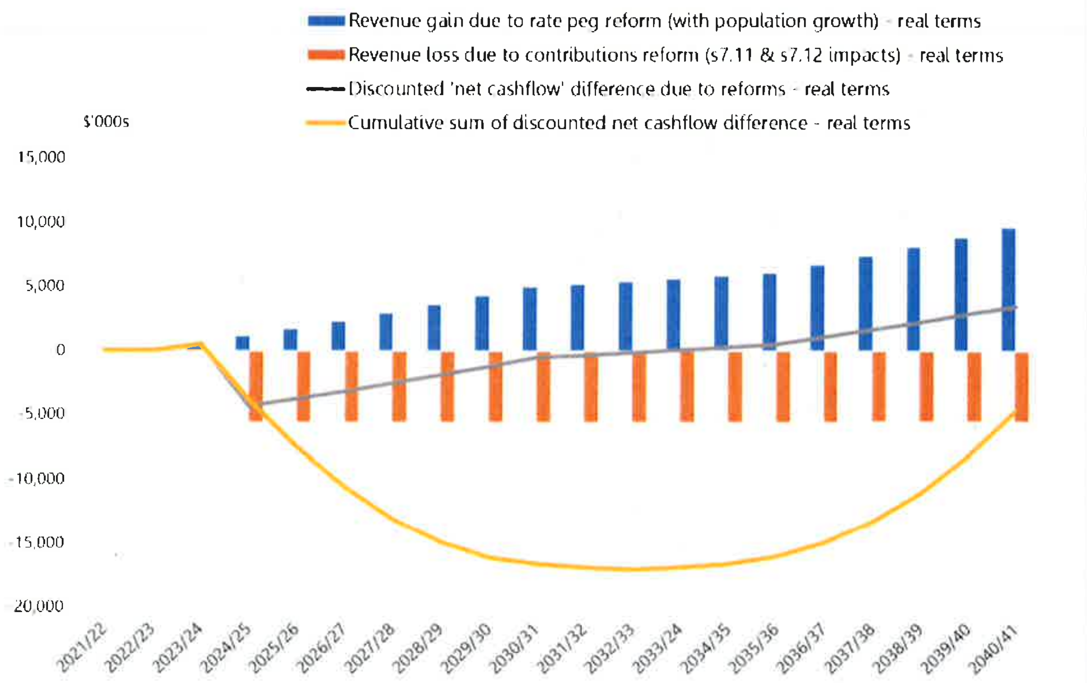
2. Impact of Reforms on Council and the Community would be Enormous

Notwithstanding the assumptions required to be made by Council and GLN, the detail outlined in the attached report identify that the impact upon Council's ability to provide for infrastructure to facilitate, manage and ameliorate the impacts of growth, will be very significant.

A total of seven scenarios were tested and these are summarised in Figure 2 below. It is estimated that the most likely scenario (at a minimum) will be scenario 1 which would remove community and indoor recreation facility works from the essential works (EWL) list and non-demand generating development (such as alterations and additions) will be exempt from s7.12 levies. This will mean that Council will no longer be able to levy for such infrastructure under its LIC.

Overall, GLN found that the reforms will likely reduce local contributions revenue from development under Council's existing LIC – potentially by as much as $7.3m per annum in real terms, or 45% of projected revenue (see Figure 1, which shows the net revenue position including projected extra rates revenue arising from separate rate peg reforms being undertaken by the State Government). It is important to note that the mooted rate peg reforms should be kept decoupled from the current contributions discussion. These are independent reform measures with completely separate purposes. For illustrative purposes, however, the net position is shown in Figure 1 below.

Figure 1 Impact of the reforms under a likely scenario



Note: scenario is if 'essential works' exclude community/indoor recreation facilities and s7.12 non-demand generating development is exempted from s7.12 levies + rates increase by the population growth factor only (excludes other rate peg income).

This impact will take more than 20 years to reach cumulative revenue neutrality (on a discontinued net cashflow basis).

In absolute terms, Figure 2 below identifies the extent of the various options modelled by GLN and the extent of reductions in income of each as a result of the mooted reforms per annum and to 2040. Figure 3 provides a graph of these reductions to illustrate the extent of losses.

	Estimated revenue impact (real terms)			Compared with existing CP framework projections (real terms)		
Scenario description	Estimated revenue over 20 years ($m)	Average revenue p.a. ($m)	Average annual revenue per capita ($)	Revenue difference over 20 years ($m)	Average revenue difference p.a. ($m)	Average annual revenue difference per capita ($)
Business as usual, no reforms	277.1	13.9	162.8	0.0	0.0	0.0
Community and indoor recreation facilities excluded from s7.11 EWL; no s7.12 levied	153.3	7.7	90.1	-123.8	-7.3	-85.5
Community & indoor recreation facilities excluded from s7.11 EWL & s7.12 levied @ 1% on non-demand generating development	193.0	9.6	113.4	-84.1	-4.9	-58.1
Community, indoor recreation & public domain facilities excluded from s7.11 EWL; no s7.12 levied	50.6	2.5	29.7	-226.5	-13.3	-156.5
All open space & community facilities excluded from s7.11 EWL; no s7.12 levied	107.8	5.4	63.3	-169.3	-10.0	-117.0
All open space excluded from s7.11 EWL; no s7.12 levied	182.4	9.1	107.1	-94.7	-5.6	-65.5
S7.12 levied LGA-wide with limits applied (under reforms) & exempt non-demand generating development	79.2	4.0	46.5	-197.9	-11.6	-136.7
Only "growth-contingent" infrastructure s7.11; no s7.12 levied	228.3	11.4	134.1	-48.7	-2.9	-33.7

Figure 2 - Potential impact of s7.11 & s7.12 reforms on Council's projected revenue under different scenarios (2021/22 to 2040/21)

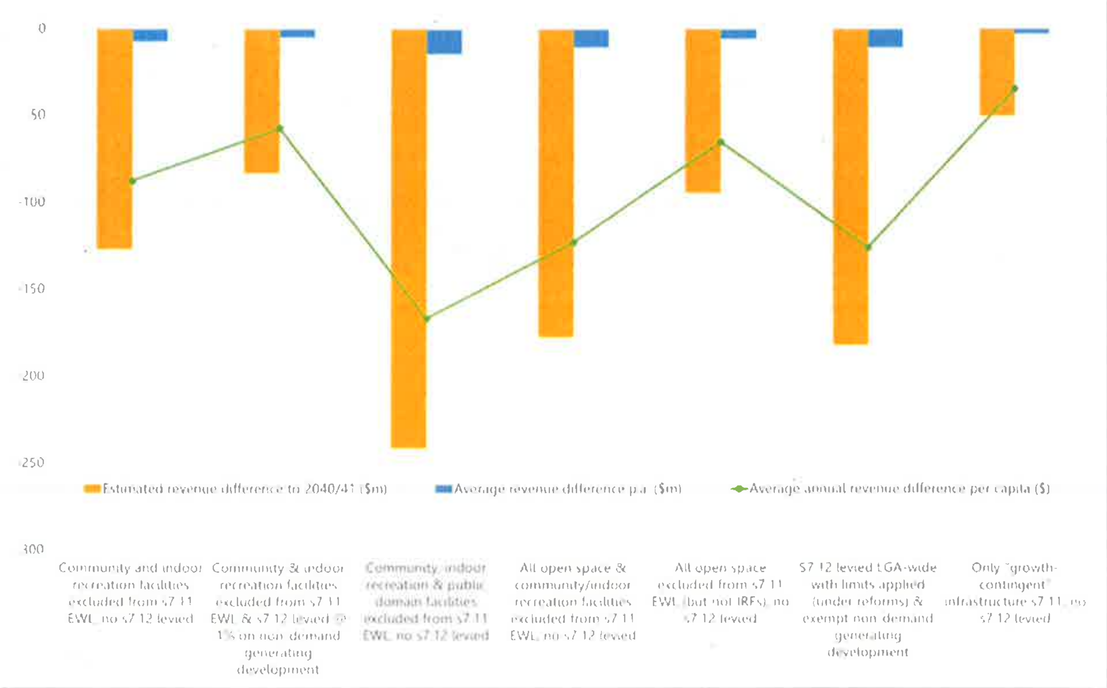


Figure 3 – Graphical illustration of Figure 2

The high level modelling conducted by the NSW Government to support these proposed reforms, has not have been reflective of all Councils, especially Metropolitan Councils with infill development and challenges of increased density. The provision of community infrastructure, recreational facilities and public domain is essential in high density residential and commercial zones with increasing building heights and increasingly intensive use of remaining public space.

Importantly, GLN concluded that:

> *The (Productivity Commission's) intent of the s7.12 reforms does not appear to be met for infill council areas. It is a more complex approach with the combined percentage and threshold rates, and the maximum rates would potentially restrict revenue to a point that North Sydney Council would not be able to deliver infrastructure needs nor recover financially over 20 years, even with the population growth factor also increasing its rates income.*

The prospect of an annual decline in revenue by $7.3M (in real terms - or $124M from 2024/25 to 2040/41), would represent an immense financial impact which will have a fundamental impact on Council's capacity to deliver public infrastructure to effectively accommodate growth.

2.1 Councils' social licence for increased density/development comes from associated improvements to community infrastructure

North Sydney Council has responsibly planned for and accommodated population, housing and employment growth through its planning policies and instruments as required by the NSW Government and the Greater Sydney Commission Regional Plan.

The disruption to local amenity and living standards represented by population or worker growth in an already densely populated environment like North Sydney, should not be underestimated. North Sydney Council has a strong track record of accommodating growth as per NSW Government targets and directions. An essential and critical enabler of growth is the community's confidence that supporting infrastructure will be provided by Council to ensure that amenity and standards of living are maintained and not eroded systematically over time. The North Sydney Community Strategic Plan elaborates on both planned growth and the public infrastructure that is planned to sustain such growth to meet increased demand. The financial capacity to continue to fund such infrastructure will be severely undermined, meaning that some of these works will either have to be significantly delayed, delivered to lower standards or abandoned altogether.

The current mooted reforms will represent a devastating blow to the capacity of an inner city, high density environment like North Sydney, to continue to deliver the infrastructure that is expected by the community to sustain growth. A 45% reduction in infrastructure funding will slash Council's capacity to deliver essential community infrastructure and significantly impair Council's capacity to facilitate the growth required by the NSW Government.

The recreation and public domain projects essential to facilitating increasing urban density will simply not be able to be funded by Council should the current infrastructure reforms be adopted. Concurrently, the very real resistance that is experienced in North Sydney to population and housing growth within established communities, will be further fuelled and community confidence undermined as Council's capacity to deliver infrastructure that sustains and "softens" growth, is severally diminished.

2.2 Projects that the Community are Expecting, will be delayed or not delivered

Council requires sustainable ongoing funding to deliver public infrastructure to ensure that the NSW Government's priorities for population and housing growth are sustained by increased open space, transport, and community infrastructure.

A tangible example of Council's reliance on developer contributions to accommodate and manage growth is the ongoing upgrades to the public domain planned and being delivered in the North Sydney CBD. The planned increases in worker population in the CBD require significant upgrades and improvements to the public domain, consistent with the CBD Public Domain Strategy which create a more vibrant, engaging and attractive place for people to work. The opening of the Victoria Cross Metro station in 2024 will reinforce the growth and higher levels of demand for a high-quality public domain, befitting a nationally significant CBD.

To this end, Council invested **$31.2M** between 2015/16 to 2019/20 in public domain works, of which, **$10.5M** has been sourced from developer contributions reserves. There remains a significant work program to accommodate the continuing growth and commercial expansion in the CBD. These public domain works are essential to continue the ongoing commitment of growth matched by the provision of a public domain and would be impossible to fund solely from Council's general revenue.

The quantum of investment and growth in North Sydney was recognised in an Australian Financial Review article (*New Developments Position North Sydney as Emerging Tech, Transport Hub* 6 July 2021 – Martin Kelly) which noted that North Sydney is now ranked in the top 20 Asia Pacific tech hubs lifting lettable floor space to 920,000sqm. The article states that "North Sydney's decades-long identity crisis is finally coming to an end as new development, tenants and infrastructure give the high-rise precinct – second only to the CBD in terms of lettable office space – fresh impetus". Council's planning and implementation of public domain improvements supported by infrastructure charges has been critical in achieving this outcome and the associated private investment. Council can simply not afford to fall behind in its public domain improvement program, which relies heavily on development contributions funding.

Figure 4 – Public domain works – North Sydney CBD

In an established central area like North Sydney, the creation of new public open space is extremely expensive. The Hume Street Park project for example, was developed in response to planned growth in the St Leonards/Crows Nest precinct (subsequently adopted by the *2036 Plan*). It included the undergrounding of basketball facilities, car parking and other infrastructure to liberate the surface of structures and create new public open space. The total cost of this project is in the order of **$90-100M** and is staged in three parts (stage 1 will be delivered by end of 2021). Council's newly adopted LIC Plan is scheduled to collect approximately **$38M** in developer contributions over the 16 year life of the plan to assist in the funding of this project. This is an essential and fundamental infrastructure project to address community concerns about infrastructure not being provided for a fast-growing population. This would otherwise be impossible to fund solely from general revenue.

Figure 5: Hume Street Park Upgrade

2.3 Reforms Shift costs from Developers to the Community

Developer charges are relatively consistently applied across Sydney and are incorporated into a project's feasibility before projects are commenced. The reforms proposed will effectively shift this cost from developers to the wider community as the shortfall in infrastructure funding will need to be borne by other revenue sources, which in the case of local government, leverage heavily from Rates revenue as the most reliable but most heavily stretched source of revenue. Historically Rate revenue has been used to fund services and maintenance, while infrastructure charges fund a portion of the capital infrastructure associated with development. The additional burden that reduced developer charges places on the wider community has a propensity to negatively impact upon overall cost of home ownership.

As the sales price of new properties is determined by demand driven by increasing population, and any reduction in Local Government Infrastructure charges will be subsumed by State imposed charges, the initial price of housing will not reduce. Furthermore the shift in the burden for infrastructure to the local community will increase overall housing and living costs. Any notion that the draft reforms are designed to improve affordability simply do not hold true.

2.4 Local Growth should equate to Local Infrastructure

The draft Bill introduces the capacity for the NSW Government to apply new infrastructure charges in the form of *regional infrastructure contributions.* This is identified in subdivisions 4 and 5 of the draft Bill.

The NSW Government appears to be cost shifting by introducing the capacity to levy for regional infrastructure contributions. It is widely acknowledged that development contributions represent a finite source of infrastructure funding. In this context, it is disappointing that at the same time that local government's capacity to levy development contributions is being significantly reduced through the draft Bill, the NSW Government is introducing the capacity to charge new regional infrastructure levies on development.

The collection of such contributions by the NSW Treasury, is fundamentally contrary to the notion of the clear *nexus* between the source of contributions and their expenditure. This clear nexus has been a fundamental component of local government contributions planning for decades with development charges collected and applied in the local area in which the development takes place. The proposed regional contributions framework introduces a level of opaqueness in a contributions system that is currently characterised by high levels of transparency.

The revenue base of local government is very limited as has been widely expressed previously. The NSW Government, on the other hand, has a diverse range of policy levers at its discretion to raise revenue for essential infrastructure. The breadth of revenue sources is simply not available to local government which relies heavily on developer contributions for essential infrastructure funding to manage impacts of growth and maintain standards of living in a fast-growing city.

2.5 Support for Contributions Reform

North Sydney Council supports the principle of reviewing and modernising the current infrastructure charges regime, however the current proposal perversely establishes a disincentive against development and creates a cost shift of the impact of development from developers to the existing community. Council is a willing participant in any review that achieves a transparent and fair approach to infrastructure contributions.

3. Summary

The draft Bill, whilst deferring to the Regulation and/or Ministerial Directions for detail, will clearly and significantly curb North Sydney Council's capacity to realise essential infrastructure revenue. Council's modelling indicates that this will represent approximately 45% in reduced revenue or an annual drop of $7.3M in funding. This will simply be unsustainable given Council's limited and restricted sources of revenue. If applied as proposed, Council will need to significantly revise and reduce commitments to its community through its *Community Strategic Plan*, slash its infrastructure works program and consider how much growth is sustainable given the vastly reduced capacity to provide for enabling infrastructure.

The proposed change to infrastructure charges perversely introduces a disincentive to facilitating development, undermines Local Government capacity to support increasing density and will further increase the cost of home ownership.