

**Submission
No 7**

**EXAMINATION OF THE AUDITOR GENERAL'S PERFORMANCE AUDIT
REPORTS JUNE - DECEMBER 2020**

Organisation: Liverpool City Council

Date Received: 20 September 2021

Greg Piper MP
Public Accounts Committee
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

By email: pac@parliament.nsw.gov.au

Dear Mr Piper

Re: Performance Audit Report Follow-up – Governance and Internal Controls over Local Infrastructure Contributions

I write in response to your letter dated 11 August 2021 regarding the implementation of recommendations made by the Auditor-General's Performance Audit Report – Governance and Internal Controls over Local Infrastructure Contributions, published 17 August 2020.

The Auditor-General's performance audit identified the following key findings specific for Liverpool City Council (Council):

- The balance of Local Infrastructure Contributions (LICs) has increased in recent years;
- The valuation of works-in-kind is inconsistent; and
- Personal information is not managed in accordance with the *Privacy and Personal Information Protection Act 1998* (PPIP Act).

Council is of the view that the report and recommendations are a fair reflection of both the progress made by Council but also the opportunities for improvement. **Council has accepted the recommendations in full** and our response, including implementation to date, is provided in **Annexure A**.

The management of developer contributions has been a key area of focus for Council, particularly considering:

- Council's Internal Audit;
- The shortfall in LICs; and
- The rollout of reforms to the infrastructure contributions system.

Council's Internal Audit

Council undertook an Internal Audit, published in December 2018, which aimed to improve transparency around the status and expenditure of LIC funds. Following the internal audit, and prior to the Auditor-General's report, Council already:

- Engaged additional skilled resources to improve focus and accountability for LICs;
- Commissioned [Managing Growth in Liverpool City Council](#) which provides a roadmap to digitisation and Contributions Planning Team's priorities;
- Established A LIC Committee (now the Developer Contributions Working Group (DCWG)) to manage contributions and support relevant infrastructure projects;



Customer Service Centre Ground floor, 33 Moore Street, Liverpool NSW 2170

All correspondence to Locked Bag 7064 Liverpool BC NSW 1871

Call Centre 1300 36 2170 **Email** lcc@liverpool.nsw.gov.au

Web www.liverpool.nsw.gov.au **NRS** 13 36 77 **ABN** 84 181 182 471

- Commenced monthly reporting to the Chief Executive Officer (CEO) about the point-in-time status of LIC funds; and
- Commenced monthly reporting to its Audit, Risk and Improvement Committee (ARIC) about risks associated with LICs, and implementation of Internal Audit recommendations.

Funding Shortfall

A major risk identified through Council's Internal Audit is the shortfall of LICs, particularly resulting from the \$30,000 dwelling cap on contributions imposed by the NSW Government in 2012. Currently, this cap-related shortfall is at \$93.7m. Council is prioritising the submission of relevant contributions plans to IPART for review to ensure the cap-related shortfall does not continue to grow.

While the largest contributor to shortfall is the cap, other factors continue to impact Council's management of contributions, including the liability of infrastructure not identified on the NSW Government's 'essential works list' (EWL). Key strategies for managing shortfall have been discussed at the DCWG, Council's Audit, Risk and Improvement Committee and the Strategic Panel, including the exploration of alternative funding options through the project development phase.

Contributions Reform

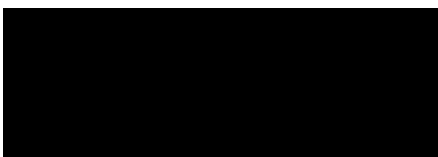
Council has reviewed, lodged submissions (where appropriate) and updated its approach to managing LICs following the LIC reforms below:

- The Productivity Commission's recommendations regarding the contributions system and the Department of Planning, Industry and Environment's (DPIE) acceptance of all these recommendations;
- The Infrastructure Contributions Bill 2021 (Council's submission recommended that the Bill not take effect until the amendments to the Environmental Planning & Assessment Regulation are released and considered by Council); and
- IPART's review of the rate peg, EWL and local infrastructure cost benchmarks.

As these reforms progressively roll out, Council will continue advocating for improved outcomes for our local communities. This includes advocating for the appropriate use of general rates revenue (i.e., not being used as a major funding source for local growth infrastructure) and expansion of the EWL.

Should you require any further information on this matter, please do not hesitate to contact David Smith, Acting Director Planning & Compliance, on [REDACTED].

Yours sincerely



Dr Eddie Jackson
Chief Executive Officer

Annexure A: Council's implementation of the Auditor-General's recommendations

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DATE COMPLETED or DUE*	STATUS and COMMENT	RESPONSIBILITY
1 Regularly report to senior management on the projected financial status of contributions plans	Accepted	Monthly updates on the income and expenditure across all plans will be provided to all members of the Executive Team and the Developer Contributions Working Group (then referred to as the Contributions Committee).	1 Sept 2020	COMPLETED. Monthly report provided to Council's Strategic Projects Committee (SPC) and Developer Contributions Working Group (DCWG).	Contributions Planning Team
		Quarterly dashboard reporting of S7.11 monies collected and expenditure levels (at a contribution plan level) for the DCWG's oversight and monitoring.	22 March 2021	COMPLETED. Monthly reporting is provided to Executive Team and DCWG, including graphs and summary of income/expenditure.	Contributions Planning Team
		c) Detailed minutes of DCWG meeting to be circulated to Council's Executive Team.	17 Dec 2020	COMPLETED and sustained. All minutes and actions arising from quarterly meetings of the DCWG are saved in Council's information management software and circulated to attendees of the DCWG meeting and the SPC.	Contributions Planning Team
2 Update council's policies and procedures to	Accepted	Deploy Works In Kind (WIK) as an application type in Council's	12 May 2021	COMPLETED.	Development Assessment Team

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DATE COMPLETED or DUE*	STATUS and COMMENT	RESPONSIBILITY
provide consistent guidance about how works and land offered by developers should be valued		enterprise system and develop necessary workflows to support the operation of the system based on the adopted WIK policy.		WIKa application has been set-up in Pathways but not yet implemented as staff will require training on new Pathway processing of WIKAs. Need compulsory pathway/workflow training to ensure users are trained on the use of pathway and this particular workflow.	
3 Update Council's Works-in-Kind and Land Acquisition Policy to address probity risks during negotiations with developers	Accepted	Council's Legal Department be engaged to review the WIK and Land Acquisition Policy to address probity risks during negotiations with developers.	12 May 2021	DELAYED. The WIK and VPA policies have both gone through Legal and are currently being reviewed by Probity. This has had to undergo further review to be made consistent with: <ul style="list-style-type: none"> • DPIE's new Practice Note on VPAs • The Western Sydney Planning Partnership's Developer Contributions Toolkit guidance on VPAs 	Development Assessment Team
4 Improve public reporting about expenditure of cash collected under Voluntary Planning Agreements (VPAs)	Accepted	Council will expand its current VPA register to include additional details relating to cash payments as a part of the VPA process. This will include payments identified within the VPA and also payments required as a part of the dispute settlement process. The VPA register will be	1 Sept 2020	COMPLETED. Changes made to the online VPA register to improve visibility of monetary contributions provided as a part of a Planning Agreement. Council's Planning Agreements Register can be found here .	Contributions Planning Team

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DATE COMPLETED or DUE*	STATUS and COMMENT	RESPONSIBILITY
		<p>updated, at a minimum, to include:</p> <ul style="list-style-type: none"> •Value of cash contribution/s (eg: Schedule 3 Item 1: \$350,000) •Purpose of payment (short description of what the contribution is going to be used for) •Status of payment (eg: outstanding/received/expended) 			
5 Mitigate risks associated with lack of independence in valuations of works-in-kind and dedicated land	Accepted	As the creation of a specific application process within Council's enterprise application management system is currently being undertaken, there will be automated steps to be followed from lodgement to finalisation of a WIK established. One of the processes will be to ensure all valuations have been cross referenced with the IPART rates and relevant contributions plans.	12 May 2021	COMPLETED. Hold points and checking of WIK amounts are work flowed in the Pathways process to mitigate risks in valuations of WIKs.	Development Assessment Team

RECOMMENDATION	ACCEPTED OR REJECTED	ACTIONS TO BE TAKEN	DATE COMPLETED or DUE*	STATUS and COMMENT	RESPONSIBILITY
6 Implement security measures over critical or private information	Accepted	a) Implement a new system that at a minimum removes the reliance on MS Excel and includes the ability to audit any changes to files.	31 March 2022*	<p>ON TRACK.</p> <p>Council considered appropriate systems that can provide the functionality of its current Excel spreadsheets while improving digitisation and audit functions.</p> <p>At this stage, there is still no system currently available that can wholly replace our existing system to better automate this process.</p> <p>However, Council is a part of DPIE's Technical Working Group for Infrastructure Contributions Digital Tools. The changes proposed are expected to be piloted in March 2022, and there is potential for an automated system Council can transition to.</p>	Contributions Planning Team, ePlanning Team
		b) That secure record containers with limited access be created and appropriately disposed of for sensitive, private and commercial information as required.	11 Sept 2020	<p>COMPLETED.</p> <p>Property has through Records created secure folders for new matters as they arise for sensitive hardship information, which restricts access to Property, Legal and the Internal Ombudsman.</p>	Property Team, Records Team