Submission
No 102

INQUIRY INTO ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (INFRASTRUCTURE CONTRIBUTIONS) BILL 2021

Organisation: City of Sydney

Date Received: 11 July 2021

Submission on the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

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Green Global Connected

Contents

Executive summary

Sydney is recognised as Australia's only global city, the leading knowledge-based economy in the nation, renowned for its creativity and productivity, with an economy that is robust, resilient, innovative, and dynamic and the premier place in Australia to live, work and visit.

The City is host to over 1.3 million people daily (pre-COVID), which is predicted to grow to 1.7 million by 2036 and 2 million by 2050.

By 2036, we expect to deliver 200,000 additional jobs on top of the existing 660,000 jobs already located in the City of Sydney area and house 115,000 more residents.

While many aspects of the city economy depend on the work of state and federal governments, the City makes an important and direct contribution to promote a vibrant and dynamic environment that facilitates economic growth, especially in the face of a changing business environment.

The City's substantial contribution to the delivery of complex community infrastructure to support urban renewal like at Green Square is important for attracting investment to and maintaining our status as a global city.

The City strongly believes that the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill) should not proceed at this stage and should, together with all aspects of the NSW Government's proposed infrastructure contributions reform package, be the subject of proper and extensive community and business consultation.

At its core, the Bill represents a diffusion of valuable infrastructure funding from areas of greatest infrastructure demand. It takes infrastructure dollars paid in some of Australia's increasingly densest communities and provides no guarantee that this money will be spent on infrastructure to support those communities. It robs businesses of the valuable contributions they make to improve their neighbourhoods and diverts that funding to undefined 'regional' projects that do not relate to the development they have made the contribution for. It puts the financial viability of local councils at risk with no discernible benefit to either the community or industry and no likely improvement to housing affordability.

Until it is guaranteed to communities and business that the contributions, they make will be used to support the growing neighbourhoods and commercial centres in which they are investing, the Bill should not proceed. The proposed changes should also be made via legislative instruments so there is a proper process each time changes are made. As drafted, even if the Bill passes, further changes could be made to the regulations at any time without proper consultation. The City opposes this,

As multiple high profile government infrastructure funding programs have demonstrated, a failure to have a transparent, consulted and fair program for the collection and spending of public money can lead to outcomes not in the public interest.

The Bill

– Proposes legislation enabling the NSW Government to make **significant reforms** to the infrastructure contributions system **without** councils, ratepayers and industry having **all the details to understand the full impacts on the delivery of local communities' infrastructure and the financial viability of councils.**

– Considers infrastructure contributions reforms **in isolation**. Concurrently, there are also substantial reforms at play for setting council rates**.** Ensuring long term financial sustainability is one of the guiding principles for Councils outlined in the Local Government Act. **Both reform**

proposals will have huge financial impacts for councils. Therefore, complete transparency and urgent consideration of the overall financial implications of how both parts of this reform agenda will work together is needed.

– If passed before a full and proper consultation on the contributions reforms (public consultation is expected in October 2021) **implementation will be a foregone conclusion in advance of councils, industry and the public having the opportunity to comment**.

The proposed infrastructure contributions reforms

– Based on our understanding of the proposed reforms, **local contributions income will be significantly decreased, to the point of impacting the capacity of local government to build and maintain essential infrastructure into the future**. The reforms will slow down the delivery of local infrastructure.

– The net effect is a **shifting of contributions income from local councils to the NSW State Government**. The concurrent **changes to rate pegging constitute further proposed cost shifting to ratepayers**. There is no apparent reduction in the total amount of contributions payable meaning there is no guarantee the shifting of income will lead to any improvement in housing affordability, infrastructure delivery or the resilience of local communities.

– Regional infrastructure contributions and transport contributions **will take monetary contributions from local communities to be spent anywhere within a wider region**. Regional contributions constitute a shifting of income to the State, to the detriment of the delivery of local infrastructure. Based on the information in the Bill, there is no apparent requirement for a clear plan for the allocation of regional contributions and no commitment to transparent reporting on how they are spent. Regional infrastructure contributions should be subject to the same high level of scrutiny as local infrastructure contributions.

– Changes to s7.11 contributions plans **will seriously limit the autonomy of infill councils to respond to the diverse infrastructure needs of their communities**. The changes will jeopardise the ability of infill councils to adequately fund infrastructure, given high costs in densely populated areas with complex planning and construction constraints.

– Changes to s7.12 contributions plans **risk curtailing the City's ability to deliver the infrastructure needed to support Central Sydney**, as Australia's global city and economic powerhouse. The opportunities presented through the large increase in development potential being created through Central Sydney planning reforms risk serious erosion if they cannot be supported by commensurate infrastructure.

– To make permanent the "payment holiday" of contributions to occupation certificate stage is in direct conflict with the NSW Government's aim of delivering the right infrastructure at the right time. **Infrastructure will inevitably lag behind new development**, which is contrary to all stated policy intentions around improving the certainty and efficiency of infrastructure delivery.

In summary, the City is extremely concerned about the proposal to pass this Bill at this time for the following reasons:

1. The Bill is premature.
2. The Bill considers infrastructure contributions reforms in isolation, but these are part of a much broader reform agenda that will impact on council finances, and
3. If passed, this Bill will enable significant legislative changes without thorough community and business consultation. There will be no opportunity for the Bill to come back to Parliament for consideration.

Green Square stormwater drain

New infrastructure to protect against flooding

At 278-hectares, Green Square is the largest urban renewal area in Australia. It represents $13B of development with 65,000 to 70,000 residents and over 25,000 jobs by 2036. $1.3B in infrastructure has been required to transform Green Square into what it is today, including new streets, Green Square library and Gunyama Park Aquatic and Recreation Centre. All of this transformation required the City to draw from general revenue.

To facilitate the urban renewal of Green Square and support the development of new communities, there was urgent need for the delivery of a 2.4 kilometre stormwater drain to address the serious flood risk in the area. This trunk drain was a critical piece of enabling infrastructure. Retrofitting it into the area was immensely complex and expensive but without it, further development and urban renewal could not occur.

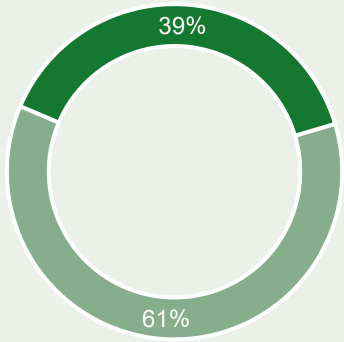
The City instigated action to secure delivery of the stormwater drain. A $140M joint funding agreement was reached with Sydney Water, where the City funded 53% of the cost of the works and Sydney Water funded 47%. Overall, the City contributed almost $75M to this project, which was sourced from both development contributions and general revenue funding.

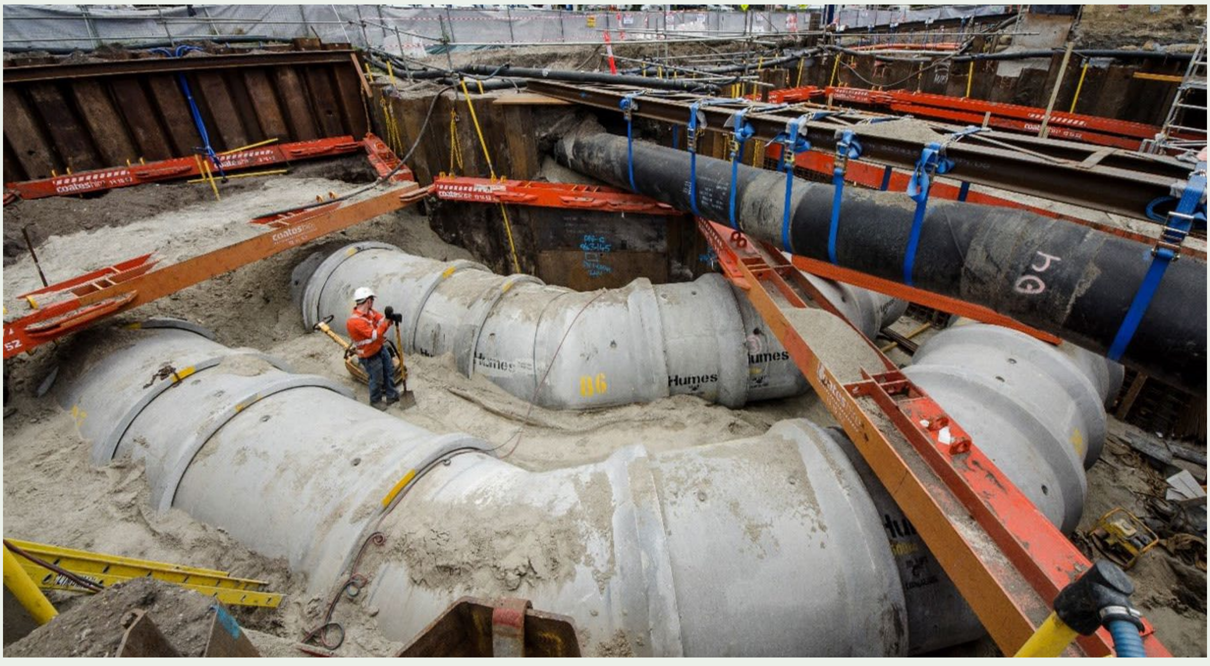
As part of the project, the City also widened the Shea’s Creek open channel and built a shared path alongside it to make it an attractive and usable open space public space.

Anecdotally, property developers have told us that by the City committing to and commencing of significant infrastructure like this, it has given them the confidence they need to proceed with major development projects.

Green Square stormwater drain funding

Local infrastructure contributions	$29.2M (39%)
City of Sydney general revenue	$45.4M (61%)
TOTAL	**$74.6M**





Submission

Introduction

The City of Sydney Council (the "City") strongly believes that this Bill should, together with all aspects of the NSW Government's proposed contributions reform package, be the subject of proper and extensive public consultation, including a clear and detailed explanation as to the likely impacts on both ratepayers and industry.

As things currently stand, councils and their ratepayers have not been given adequate information to understand the full financial impact of what is being proposed and the property industry need to understand that the majority of their contributions will go into a Treasury bucket for use across entire regions rather than for essential infrastructure to support their development projects.

This Bill proposes to enshrine this proposal in legislation which defers all future policy making to subordinate legislation and ministerial direction ahead of full public consultation. Based on the limited information currently available, the City understands that it will be significantly worse off financially as a result of these proposed reforms and that the ultimate cost will be borne by ratepayers who will lose the benefits of adequate infrastructure in their communities or will have to pay to build and maintain infrastructure through significant rate increases (subject to work being done elsewhere by the Independent Pricing and Regulatory Tribunal ("IPART")).

There is significant risk that these reforms will detrimentally impact councils' ability to adequately fund local infrastructure, which in turn will result in inadequate and unsafe infrastructure unable to withstand the effects of a changing climate, with potentially catastrophic consequences.

Concerns regarding the Bill itself

The City recognises the critical importance of infrastructure contributions to fund new or improved infrastructure. It is important to recognise, however, that even existing levels of local infrastructure contributions do not provide sufficient income to local governments to meet community requirements for both capital works and ongoing servicing and staffing of infrastructure. Currently, local contributions form only a part of the income councils require to deliver infrastructure. Over the past 5 years, local infrastructure contributions have funded around 31% of capital works and property acquisition in our local government area. Based on our understanding of the Government's proposed reforms, local contributions income will be significantly decreased to the point of impacting on the capacity of local government to build and maintain essential infrastructure into the future.

The City works hard to provide its communities with access to the services and infrastructure they need to live and work in Australia's global city and one of its most densely populated urban areas. It is imperative that we continue this, given that Central Sydney is Australia's most productive location and generates around 7% of Australia's economic activity each year. Our business communities expect us to continue to deliver the infrastructure they need to support their businesses. We need to continue to build and maintain the infrastructure of our City as a key attractor for investment, talent and economic activity to support our recovery from the effects of Covid-19. Our business communities expect us to continue to deliver the infrastructure they need to support their businesses.

The City is **extremely concerned** about the proposal to pass this Bill at this time for the following reasons:

1. The Bill is premature.

The Bill proposes to amend the Environmental Planning and Assessment Act 1979 ("EP&A Act") and other instruments to establish the legislative platform which will enable a significant package of infrastructure contributions reforms to be implemented through future subordinate legislation and Ministerial Direction. The principles behind these reforms were recommended by the NSW Productivity Commission (December 2020) and accepted by the NSW Government (March 2021).

The NSW Government's response to the NSW Productivity Commission recommendations were published as a six page table which briefly addressed numerous reform proposals[1]. It is important to note that a key plank of the proposed infrastructure contributions reforms is significant associated changes to the capacity of councils to increase rates. There is insufficient detail in the NSW Government's response for councils to understand with any certainty the real impacts of the proposed contributions reforms and the full financial implications of the entire reform package which includes rate reforms. There are many unknowns. For some of the reforms, the Government response acknowledges that there is still work needed to refine the proposals, e.g. to finalise contribution rates chargeable per dwelling / per square metre for commercial development. None of this material has been through a public consultation process adequate to enable a full understanding of and engagement with the overall implications.

It is unfair to councils and ratepayers across NSW for this Bill to be before Parliament seeking to establish a legislative platform for a significant reform package that councils have only seen scant detail on, and which has not been subject to a full and detailed consultation process engaging all key stakeholders.

2. The Bill considers infrastructure contributions reforms in isolation, but these are part of a much broader reform agenda that will impact on council finances.

These amendments, if passed, will enable subordinate legislation and Ministerial Directions to be implemented to fundamentally change the way councils fund and deliver local infrastructure.

At the same time, at the direction of the NSW Government, IPART is in the process of reviewing and consulting on the current system for setting council rates revenue to include population growth. IPART's review[2] is still in the consultation phase and the financial impacts and mechanisms are yet to be finalised.

The NSW Government has committed to reforming the rate peg system, so that councils can align rates revenue with population growth. This will potentially have significant financial ramifications for Councils. For the City of Sydney in particular, however, there is an even greater level of uncertainty as IPART has advised that the model they have proposed provides an anomalous result for the City. Given this, further work is required to identify an appropriate approach, and once identified, understand the impact of the proposed approach on existing businesses and residential

[1] https://www.planning.nsw.gov.au/-/media/Files/DPE/Other/NSW-Government-response-productivity-commission-review-2021-03.pdf?la=en

[2] https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/Reviews/Rate-peg-population-growth/Review-of-the-rate-peg-to-include-population-growth?qDh=0

ratepayers. Additionally, the City notes its ongoing concerns that the current model under which rates are applied to residential apartments does not enable it to charge the owners of these properties rates at a level which reflects the value of their properties.

There has been no holistic review or in depth consideration made public by the NSW Government as to how these two substantial, complicated reform proposals will interrelate. Singularly, and together, they will both have significant financial ramifications for councils both in the immediate and longer term. Ensuring long term financial sustainability is one of the guiding principles for Councils outlined in the Local Government Act 1993 (see sect 8B). Therefore, to enable councils to understand the impacts of these combined reform packages on their long term sustainability, urgent consideration of the overall financial implications of how both parts of this broader reform agenda will work together in practice is imperative. This will provide councils with insight to potential financial risks and impacts and their future ability to provide services, maintain assets and build new infrastructure for their communities.

3. If passed, this Bill will enable significant legislative changes without thorough community consultation. There will be no opportunity for the Bill to come back to Parliament for consideration.

The NSW Government has indicated that it intends to consult on the detail of the infrastructure contributions reforms in October 2021, with a view to having the reforms in place by July 2022. If this Bill is considered and passed before a full consultation process is undertaken, the implementation of the legislative reforms in their current form will be a foregone conclusion, in advance of councils and all other stakeholders, including the public, having seen the full detail of the proposals and having the opportunity to comment.

Furthermore, passing this Bill without due consideration of the interrelationship with the rate reform proposals will signal agreement in advance to a wider reform agenda that is still under discussion. Consideration of the final form of the legislation, including the appropriate level of delegation by Parliament to Ministerial Direction, should form part of the entire consultation package. This is particularly the case given the absence of any apparent demonstrated need to proceed urgently to pass this legislation.

George Street, Sydney

Public domain transformation and pedestrianisation

By 2036 it is predicted that 1.7 million people will visit the City daily and 2 million by 2050. The City understands the importance of creating high quality, safe, and attractive places and prioritises delivering a well-connected and inviting walking environment which is important to workers, visitors, residents, and businesses.

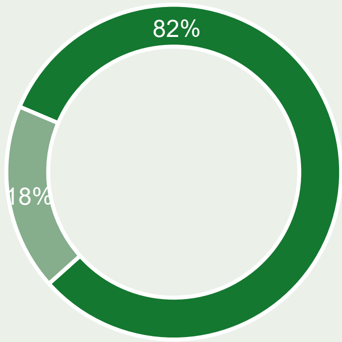
George Street is at the heart of Sydney's Central Business District. Infrastructure in the CBD needs to befit our status as Australia's global city.

The public domain transformation and pedestrianisation to support the new light rail transport system have turned George Street into a major boulevard that is now a truly great, world class public space. George Street north has been transformed from being congested with buses and traffic to one with much needed public transport capacity and excellent pedestrian amenity.

The City's commitment to delivering the public domain improvements was a key enabler of the overall light rail project. The City contributed $220 million towards this multi-million dollar project that transformed George Street north into Australia's premier street, including new street trees and street furniture. The vast majority of the City's funding for this project is due to be recouped from local infrastructure contributions.

The George Street north transformation has unlocked opportunities for businesses and has reaffirmed the CBD's status as Australia's most important economic region.

George Street north funding	
Local infrastructure contributions	$180M (82%)
City of Sydney general revenue	$40M (18%)
TOTAL	**$220M**



To extend opportunities created by the project beyond George Street north, the City is investing $35.5m to extend the pedestrian boulevard of George Street south. While extension of the project is supported by state and government funding, over 80% is to be funded by the City, again coming from local infrastructure contributions and general revenue.

Major landowners and businesses like Atlassian along the George Street south are investing significantly into the areas future by developing world class buildings. In return, they rightly expect that the City will continue to provide and maintain public domain infrastructure commensurate to their level of investment.

With construction to the south of Goulburn Street planned to start in late 2021, any deviation from the City's planned funding for the project throws its delivery into serious doubt.

Concerns regarding the proposed infrastructure contributions reforms

The City has **significant concerns** about the proposed infrastructure contributions reform package that the Bill is seeking to enable. Based on the limited information about the reforms available, the City raises the following concerns:

4. Section 7.11 contributions plans

The NSW Government proposes reforms to section 7.11 of the EP&A Act which will significantly limit the autonomy of councils to respond to the infrastructure needs arising in their local areas.

While the removal of the current $20,000 “trigger threshold” for the IPART review of s7.11 contributions plans is welcomed, the City asserts that the review or removal of this threshold was overdue and in urgent need of change entirely independently from the current reform process. However, in its June 2020 consultation on the issue, the NSW Government led councils to believe that the “trigger threshold” for the IPART review of plans would be increased, and 3 options were provided as to how this could be done. The removal of the threshold, contingent on s7.11 plans being more restrictive in terms of the types of infrastructure that can be funded and what can be charged to deliver that infrastructure, was not put forward as an option.

It is disappointing that the NSW Government seems to have disregarded its previous proposals to increase the threshold, instead opting to replace them with recommendations arising from the NSW Productivity Commission’s final report. It is unfair to councils for the NSW Government to use this Bill to make legislative changes to enable new policy that has not been properly consulted on and which has potential wide-ranging impacts on the ability of councils to properly fund and maintain essential infrastructure for their communities.

Essential works list

The City’s contributions plans have always funded a diverse range of infrastructure in response to the needs of our very densely populated local government area which accommodates a wide variety of worker, resident and visitor populations. The contributions plans have also aligned with our committed long term capital works program.

The NSW Government proposes that IPART determine the type of infrastructure to be listed on the essential works list, which would then serve to dictate the types of infrastructure that can be funded through s7.11 contributions plans.

As IPART have not yet undertaken a review of the existing essential works list, we can only speculate as to what might be on an updated essential works list proposed to apply to all s7.11 contributions plans.

Using the existing essential works list[3] as a starting point, it is clear that the infrastructure types on this list are more applicable to greenfield land than urban infill areas. The existing list is heavily skewed towards land provision, which is incredibly challenging in a local government area like the

[3] Section 3.2 of the NSW Government Practice Note: Local Infrastructure Contributions – January 2019 states:
Essential works list – The following public amenities or public services are considered essential works:

- land for open space (for example, parks and sporting facilities) including base level embellishment
- land for community services (for example, childcare centres and libraries)
- land and facilities for transport (for example, road works, traffic management and pedestrian and cyclist facilities), but not including car parking
- land and facilities for stormwater management
- the costs of plan preparation and administration.

City of Sydney, where land is in high demand and land acquisition costs are increasingly prohibitive.

The City asserts that urban infill councils with complex infrastructure needs are best placed to determine what is essential infrastructure within their areas. In the City, this would include public domain and open space improvements (beyond base level embellishment), community facilities (such as libraries) and indoor recreation facilities (such as aquatic centres and multipurpose courts). It would also include upgrades of existing facilities and improvements to existing infrastructure.

Benchmark costs

The Bill proposes that *"the cost of providing public amenity or public services must be calculated in accordance with the regulations and relevant Ministerial directions"*. The NSW Government proposes to allow IPART to *"develop and maintain standardised benchmark costs for local infrastructure that reflect the efficient cost of provision"*.

While the Bill seeks the power for standardised benchmark costs to be set through regulations and directions, again, councils have seen no detail regarding what these benchmark costs may be. It is therefore difficult for councils to determine the financial impacts of these prescribed benchmark costs and how they may impact on their ability to fund and deliver infrastructure. It is unfair for this Bill to be laying the foundations for reforms when the full impacts of the proposals are presently unknown and when there has certainly not been full and adequate consultation with impacted stakeholders.

It is not clear whether different benchmark costs will be set for individual local government areas, reflecting the different costs of providing infrastructure in different areas throughout NSW. The City would strongly object if "one size fits all" benchmark costs were set, as this would not reflect the significant costs of infrastructure delivery in our local government area which accommodates Central Sydney as the core of Sydney's metropolitan area and Australia's global economic centre. Infrastructure construction costs are also typically higher in infill areas which are densely populated and have complex planning and construction constraints. Further, infrastructure in an area such as the City, which services a significant worker and visitor population in addition to an increasing residential population, needs to be of a standard and quality to adequately service all these populations as befits a global city.

The delivery of large scale infrastructure projects in urban areas such as the City of Sydney is challenging, with latent conditions associated with historical land use presenting project risk, and physical constraints presented by the existing built environment. These costs must be factored into any benchmark applied by the NSW Government to avoid even further disadvantaging councils through this current reform process.

Councils are best placed to understand the delivery costs associated with infrastructure delivery within their local context. The City asserts that the setting infrastructure delivery costs in contributions plans should remain a council responsibility, as this will reduce the risk of there being inadequate funds to allow for the timely delivery of infrastructure.

5. Section 7.12 contributions plans

The Bill seeks to enable regulations that will allow for changes to how s7.12 contributions can be levied. The NSW Government proposes to change from a maximum percentage levy (as a percentage of development cost) to a maximum dollar rate levy which can only be charged for new additional development. Different dollar rates are proposed for residential and non-residential development.

The City has been working for over 18 months to bring forward a new s7.12 contributions plan for Central Sydney, as detailed below. The changes proposed to s7.12 contributions plans risk curtailing these efforts and significantly impacting the City's capacity to deliver essential infrastructure in a global CBD that will have a significantly increased worker, visitor and resident population due to the large increase in development potential being created under the Central Sydney planning reforms.

Draft Central Sydney Development Contributions Plan 2020

In December 2019, as part of work related to the Central Sydney Planning Strategy and planning proposal, the Lord Mayor of Sydney and the Minister for Planning and Public Spaces agreed that the City would prepare and exhibit a new section 7.12 development contributions plan in lieu of a proposed community infrastructure contribution. This new plan would allow the City to levy contributions at a sliding scale up to maximum rate of three percent, based on development cost. It would replace the existing contributions plan prepared under section 61 of the City of Sydney Act 1988.

The Council approved this draft contributions plan and associated significant changes to the planning controls in December 2020, and shortly thereafter requested that the Minister amend the relevant regulation to allow for the implementation of a levy up to three percent. The City is still waiting for this regulation to be amended to enable the amended planning controls to become operative.

The City now faces the real possibility that the draft contributions plan prepared to honour the agreement with the Minister may only have a very short life, if it is permitted to be made at all. This is because the NSW Government has indicated its intention that infrastructure contributions plans are to be reviewed by 1 July 2024 and align with the proposed new contributions regime.

Proposed section 7.12 levy rates

If the City were to pursue a s7.12 plan for Central Sydney under the proposed legislative regime, the income generated under the new regime with the new maximum dollar rates is likely to be significantly less that could be generated if our draft contributions plan with a levy of up to three percent were in place.

Under the proposed s7.12 reforms, an approach is suggested to allow contributions to only be levied where there is an increase in floorspace. Any such approach is strongly objected to by the City as it is based on a flawed assumption that there is no additional infrastructure demand created where a development does not create any numerical addition to the floorspace on a lot. Through its regular Floor Space and Employment Survey (FES), the City has evidence confirming that works such as the refurbishment of non-residential floor space generally results in intensification of current land uses and hence increased demand for infrastructure. This approach fails to recognise that significantly different impacts can arise from different uses which take up the same physical area, and additionally fails to take into account the significant increase in population that can be created from a refit and upgrade of a building, even if no additional floorspace is formally created.

A considerable amount of infrastructure in Central Sydney has been forward funded, which means that our contributions plan for Central Sydney will be in recoupment for some time. It is unreasonable for changes to the way s7.12 contributions are levied to impact on the City's ability to finance this recoupment, particularly given that the City has honoured the agreement between the Lord Mayor and the Planning Minister to prepare a s7.12 plan with a levy of up to three percent.

Pyrmont Peninsula Place Strategy

Case study demonstrating infrastructure funding complexities

Pyrmont Peninsula is a case study that demonstrates the infrastructure funding complexities arising from State led planning reforms to deliver additional growth against the backdrop of uncertainty generated by the proposed infrastructure contributions reforms.

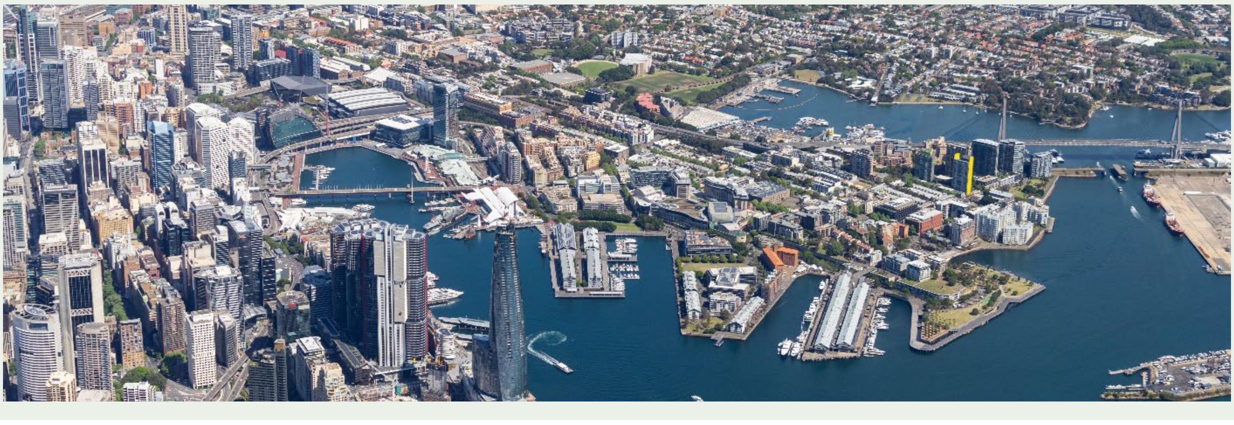
The City has been working in collaboration with the Department of Planning, Infrastructure and Environment (DPIE) on the implementation of the Pyrmont Peninsula Place Strategy ("PPPS"). This Strategy forecasts in the next 20 years, as a result of new development there could be 8,500 more residents and up to 23,000 more jobs in the Pyrmont Peninsula. Delivery of significant infrastructure to support these large population increases is identified as a key aspect of the PPPS itself (see, for example, Direction 5 – A tapestry of greener public spaces and experiences and Big Move 5 – including the return of Wentworth Park to the local community). A local infrastructure contributions plan is currently being prepared to ensure that this significant growth is supported by adequate infrastructure.

Projects in infill areas such as Pyrmont are often more expensive and complex to deliver than in greenfield areas due to the competing demands of existing and new residents, in addition to issues such as heritage considerations, contamination and impacts on traffic. On the City's initial high level estimate, work on Wentworth Park alone could cost in the order of $90 million to upgrade, including the costs of demolition and remediation. As at this date it is unclear whether this work will be considered a local or regional responsibility. In addition, significant further community services and infrastructure will be required such as recreation facilities, public domain improvements, cycleway links and stormwater drainage upgrades.

As part of the work to prepare a local contributions plan, income forecasts have been modelled for s7.11 and s7.12 plans to inform decisions about the infrastructure to be funded through local contributions. At this time, no decision has been made as to which type of contributions plan will be pursued, as that is still subject to ongoing discussions between the City and DPIE.

Given that the local infrastructure plan is to support a 20 year strategy and the NSW Government's intention for all councils to have updated plans reflecting the reforms in place by July 2024, the income modelling has taken into account the proposed contributions reforms.

The income modelling indicates huge differences in income which could be generated through the current and proposed local contributions systems. This is making the task of preparing a schedule of works very difficult, as the City cannot list infrastructure items on the works list if there is too much uncertainty as to how this infrastructure can be funded. There is likely to be a significant difference between the required infrastructure and the contributions raised which will impact on the delivery of the Directions and Big Moves in the strategy, particularly if regional contributions are imposed and subsequently not spent within the surrounding area.



6. Proposal to make permanent the deferral of payment of contributions to occupation certificate stage

The NSW Government proposes to use the Bill to make permanent the temporary Covid-19 related Direction currently in place which allows a “payment holiday” of contributions from construction certificate to occupation certificate stage.

The City has consistently argued against this policy change and is strongly opposed to the proposal to make it permanent. This approach is fundamentally flawed, undermines the entire purpose of development contributions and presents a further challenge to the ongoing financial stability of councils.

This policy change is in direct conflict with the NSW Government’s aim of delivering the right infrastructure at the right time to improve the productivity of communities as deliver jobs. If infrastructure contributions are only payable to councils at occupation certificate stage, then councils will have received the funding too late to ensure that infrastructure is delivered and operational when the occupants of a new development move in. Infrastructure lag behind new development, already a long held concern by the property industry and a key challenge under the current infrastructure system, will inevitably be exacerbated as councils are receiving fewer contributions and only after populations have increased.

This proposal represents an additional impost on councils who will already have their income significantly reduced under this scheme. It will force many councils to either borrow or fail to build and maintain infrastructure and ultimately may lead to the risk of them being in breach of their obligations under the guiding principles established in the Local Government Act.

Drop in section 7.11 contributions

In the City, the Covid-19 related Direction is in place in relation to our section 7.11 contributions plan, but contributions under section 61 of the City of Sydney Act 1988 are not currently captured by this Direction.

The City has seen a noticeable drop in section 7.11 contributions in 2020/21, far beyond that experienced for section 61 contributions, which are not subject to the deferral arrangements. A financial analysis undertaken for the financial year ended 30 June 2021 indicated that section 7.11 contribution receipts in the 2020/21 financial year were around 85 – 95% down against each of the three preceding financial years. This suggests that this policy is having an impact on contributions receipts and therefore in the long term may impact the City’s ability to fund and deliver infrastructure.

Significant risk of delinquency

While the impacts of delaying contributions payments may even out over time as contributions become payable at the occupation certificate stage, there remains a high risk of delinquency by developers and private certifiers. While the NSW Government intends to introduce measures to address this risk, it remains that private certifiers may be put under pressure to issue occupation certificates, and that there are rogue development companies that may fold upon building occupation which may make recovery of unpaid contributions very difficult.

The issues of private certifiers failing to properly attend to their obligations in relation to certifying developments have been well documented in relation to building defects and it is not appropriate to extend the risks in those areas to contributions payments, with the effect of creating both an additional cost to councils to follow up on compliance and a significant risk (ultimately borne by the community) that contributions will not be paid and that consequently essential infrastructure will not be able to be delivered. The burden of enforcement in this area is most likely to fall on councils and the risk of revenue loss is significant.

Modelling should be released

Prior to implementing this change permanently, the NSW Government should provide the modelling that they have undertaken to support this proposal. This should include a cost benefit analysis which shows how much development is likely to be incentivised as a result of this Direction versus the impacts on infrastructure delivery for councils and lost economic benefits of those projects.

7. Land value contributions

The City supports the principle of a land value contribution, with the obligation created at rezoning stage when development uplift is realised. It is considered that this approach represents an appropriate mechanism to ensure that the gain which flows to landowners upon upzoning is offset by some contribution to the costs of future population growth. This land value contribution must be additional to the requirement for local contributions, and not used as a mechanism by which to avoid or offset payment of local contributions.

The Bill seeks to enable this new contributions mechanism, but again councils have little detail of how it will operate in practice. Will it be the NSW Government or individual councils who determine the areas where a land value contribution can apply? Will there be criteria that must be met for a land value contribution to be payable in a particular area, and if so, who will set those criteria?

Confirmation is needed that the land value contribution mechanism will be available to all councils where there are opportunities for areas to achieve uplift through rezoning, not just to greenfield councils. It is critical that this mechanism be available to infill councils like the City, where rezonings typically allow substantial development uplift and where, as set out above, there are significant complexities which impact the cost of delivering the necessary infrastructure. This will ensure that additional density funds the infrastructure needed to support it.

Like other contributions related reforms that the NSW Government has recently applied retrospectively (such as the deferral of contributions payments to occupation certificate stage), councils should be able to apply to have land value contributions payable on sites which have been rezoned within the last five years but not yet developed where they can demonstrate that a significant uplift in value has occurred without a commensurate contributions scheme being available due to the present changes. The City would like the opportunity to model and, if appropriate, propose a plan under which land value contributions would be payable in both Central Sydney and the Pyrmont Peninsula, where forthcoming changes to planning controls will facilitate significant development uplift.

8. Regional infrastructure contributions and transport contributions

The Bill seeks to make provision for the creation of new regional infrastructure contributions to be imposed via a State Environmental Planning Policy (SEPP). These new regional contributions are proposed to replace the existing state-based Special Infrastructure Contributions (SICs).

Regional infrastructure contributions are proposed to apply broadly within Greater Sydney, while other regions will have their own specific region charges. In Greater Sydney, it is proposed that a regional contribution of between $10,000 and $12,000 per dwelling will be payable, while a contribution of between $10 - $40 per square metre will be charged for non-residential uses.

The NSW Productivity Commission’s final report refers to these regional contributions being for state led *“growth enabling infrastructure”*. The Bill specifies that regional contributions are to be imposed for the purpose of facilitating the provision of a broad variety of development, including public amenities or public services, affordable housing, transport infrastructure, regional or State roads and measures to conserve or enhance the natural environment.

The City is very concerned about the creation of this new, broad based regional contribution scheme that will take contributions from local communities but then may be spent anywhere within the wider region. What governance arrangements will be in place for these contributions to directly benefit the communities that pay for them? If funds are to be collected and held by Treasury, and payment out of the fund requires approval of the Treasurer and consultation with the Minister for Planning and Public Spaces, what opportunities will councils and their local communities have to influence how funds are allocated? If funds are to be held by Treasury, what accounting and reporting mechanisms will be in place so that local communities can identify the infrastructure that their contributions have been spent on? Avoiding the perception of politically motivated decisions on where funds are spent across the regions should be a prioritised by any such reform.

Regional infrastructure contributions should be subject to the same high level of scrutiny as local infrastructure contributions. To be able to levy local contributions, councils must prepare contributions plans with work schedules that detail the type of infrastructure to be delivered on specific sites, the estimated cost of that infrastructure and a time frame for delivery. Councils are required to place draft local infrastructure plans on public exhibition, and consider any submissions made on draft plans. There are no such requirements included in the Bill in relation to regional contributions. The NSW Government should be required to adhere to the same level of transparency and accountability in how it plans for regional infrastructure and how it spends regional contributions that end up in the Treasury bucket. For example, benchmarking for infrastructure costs is foreshadowed for local infrastructure but there is no such requirement for regional contributions.

The City notes that these new state level regional and transport infrastructure contributions will result in less local contributions income, to preserve feasibility of projects. The impact of this is that local communities will either suffer from the provision of less local infrastructure, or that councils will have to use other revenue sources to make up the funding shortfall to deliver necessary infrastructure.

The City further notes substantial financial contributions it has made to recent State government projects, including a $220M contribution towards the Light Rail - CBD to South East project, over $74M to the Green Square stormwater drain project, provision of space at Joynton Avenue, Zetland for a future school, and works completed on behalf of various state government agencies (including utilities and Roads and Maritime Services) in the Green Square urban renewal area.

It is not clear how the imposition of regional infrastructure contributions for affordable housing purposes may interact with existing legislation and policy on the provision of affordable housing, including the City's existing and recently extended affordable housing contributions schemes.

It is unclear as to the types of transport infrastructure that the NSW Government intends to fund through the proposed regional infrastructure contributions, and whether funding for regional or state roads involves upgrades, extensions or new road infrastructure. The City objects to the use of contributions to fund road tunnels, interchanges and surface freeways which are not environmentally sustainable solutions to Sydney's ongoing challenges associated with traffic congestion.

The Bill states that regional infrastructure contributions "may" be imposed in addition to local contributions. The City seeks confirmation and certainty that where regional contributions are payable, these will always be additional to local contributions. The Bill should be amended to ensure this.

The Bill also makes provision for a transport component of the regional infrastructure contribution which is proposed to be levied on developments that benefit from increased capacity as a result of major transport works. As the proposed contributions are to be spent on the identified transport project, the City asserts that such funds should only be collected to fund public transport infrastructure, and not on any major road or surface freeway transport projects.

Mandible Street, Alexandria

Land acquisition for new open space/community uses to support growing communities

Green Square is home to Australia's most dense residential community. There is an average of 50 apartments completed every week. That's around 42,000 residents - more than half the total population has already moved in.

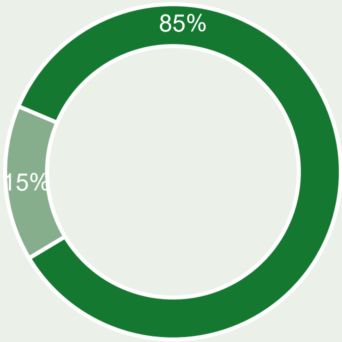
As it continues to grow, the planning and management of recreation and community space needs to ensure that communities are provided with high quality, safe and accessible places which respond to their needs and supports their wellbeing.

There are significant challenges to acquire land for open space and community facilities in the Green Square environment due to the high demand for land and rapidly increasing land values. Despite this, the City has managed to acquire approximately 2.2 hectares of land for the provision of new open space and/or community facilities in Alexandria. The land acquisitions, completed via market transactions in 2013 and 2020, demonstrate the cost pressures of a rising property market, with the increase in cost per square metre comfortably outstripping CPI and other construction indices over this time.

The City has funded this land acquisition through a combination of local infrastructure contributions and general revenue. There will also be future costs associated with making this land suitable for its intended use, which may include complex issues such as land remediation.

Mandible Street acquisition funding

Local infrastructure contributions	$81.7M (85%)
City of Sydney general revenue	$13.9M (15%)
TOTAL	**$95.6M**



9. Local Strategic Planning Statements

The Bill includes reference to changing the review requirements for council's Local Strategic Planning Statements (LSPS) from 7 to 5 years. This change is proposed in the absence of consultation with councils as well as a lack of context around the background and intent of the change.

The preparation of a council's LSPS is detailed, evidenced based work requiring time for researching, preparing, reporting, consulting and then final adoption. A two year reduction in the timeframe will have an impact. For example, the City relies on its Floor Space and Employment Survey (FES), itself a lengthy and detailed process, which aligns with ABS Census timeframes. This work is fundamental to understanding change in the City since the last FES. This process plus the preparation and exhibition of the LSPS, will mean that shortly after the conclusion of one process, the next will need to start.