



**CITY OF
PARRAMATTA**

Submission

To the Department of Planning, Industry
and Environment

In response to the Infrastructure
Contributions Review 2020

Endorsed by Council

09.06.2020

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1. INTRODUCTION

The City of Parramatta Council (Council) welcomes the release of the Infrastructure Contributions Review (the Review) as it is considered that key elements of the system have not been reviewed or updated in some time. The simultaneous review of several contributions mechanisms presents opportunities to consider the contributions system more holistically.

Council has reviewed the various documents that make up the Review, including:

- Draft planning agreements policy framework
- Improving the review of local infrastructure contributions plans discussion paper
- Criteria to request a higher section 7.12 percentage discussion paper
- Draft Special Infrastructure Contributions guidelines
- Proposed amendments to the *EP&A Regulation*

This submission is structured in a format that comments on each of the documents individually.

Notwithstanding our comments on the above documents, Council considers the infrastructure and development contributions system in NSW requires a deeper and more holistic review than that presented in this exhibition. Key principles that should underpin this review include:

- a) This Review should knit together the various and often disparate ways in which development contributions and infrastructure planning and delivery are currently practiced in NSW.
- b) This Review should be entrenched in a coordinated and equitable vision for delivering adequate, high-quality infrastructure to all communities across NSW.
- c) This Review should focus first on improving infrastructure delivery (rather than just contributions mechanisms) and should have at its core a realistic consideration of the true costs of planning, delivering, maintaining, and replacing public infrastructure.
- d) This Review should take into consideration that the requirements for infrastructure planning / delivery and contributions vary considerably based on the environmental context in question. For example, delivering infrastructure in an urban infill setting bears little resemblance to delivering infrastructure in a greenfield setting, in terms of key factors such as land and capital cost, timeframes, siting, quantity and maintenance.
- e) This Review should examine the development feasibility impacts of contributions in a transparent and holistic manner.
- f) At a minimum, the Review should better coordinate all types of development contributions, acknowledging their interrelationships and better defining how they are meant to work together (rather than present multiple disparate policy documents as contemplated in the current exhibition). More broadly, the Review should think outside of the current mechanisms available and contemplate the creation of new and more appropriate policy tools for infrastructure funding and delivery.
- g) Procedurally, the above would mean reviewing not only the contributions methods which the EP&A Act gives rise to, but the provisions of the EP&A Act itself.

2. THE INFRASTRUCTURE CONTRIBUTIONS REVIEW

This section provides a response to each of the five documents that form the Infrastructure contributions review.

A. Draft planning agreements policy framework

Background – Current policy context relating to planning agreements

Existing policy documents

Planning agreements, otherwise known as Voluntary Planning Agreements (VPAs), are addressed in the existing 2005 Practice Note on Development Contributions. The Practice Note is not legally binding, but provides “best practice” guidance on how planning agreements should be used.

Previous policy exhibition and Council submission

Council notes that a previous draft Practice Note, Planning Circular, and Ministerial Direction relating to Planning Agreements were exhibited from 4 November 2016 – 27 January 2017. Council provided a submission when these documents were exhibited (refer Item 18.6 at Council’s meeting of 12 December 2016). The key points of Council’s previous submission were as follows:

- a) A review of VPA practice note is welcomed as it is now considered to be out-of-date;
- b) Improved guidance from the State Government on the role of VPAs and how they should be applied is welcomed;
- c) Clarification is sought regarding a number of apparent contradictory and/or unclear directions in the draft policy documents;
- d) A preference is expressed for flexibility to be built into the framework to allow innovative use of VPAs to achieve positive planning outcomes, for Councils and development proponents; and
- e) Using VPAs on both a site-specific and broader systematic basis, subject to these being linked to a clear infrastructure delivery plan is supported.

Council’s Planning Agreements Policy

Council adopted its *City of Parramatta Planning Agreements Policy* in November 2018. This policy is available at the following link:

<https://www.cityofparramatta.nsw.gov.au/sites/council/files/inline-files/City%20of%20Parramatta%20Planning%20Agreements%20Policy%20%28Amendment%201%29%20Adopted%2026%20Nov%202018.pdf>

Summary of proposal

The exhibited documents relating to the planning agreements framework include a Draft Practice Note and Draft Ministerial Direction. The draft Practice Note covers several areas relating to the negotiation, operation and administration of planning agreements.

Commentary on the proposed changes

Council generally considers that the guidance provided in the majority of the draft practice note relating to procedures and decision-making is largely straightforward and would be of assistance to councils in drafting their own Planning Agreement policies. Areas where additional guidance could be of assistance includes negotiation systems, the use of independent third parties, dispute resolution and cost recovery.

Council has identified a matter of fundamental and urgent concern. The draft Practice Note provides clear direction that value sharing is *not* an acceptable approach upon which to base VPAs; this is illustrated through the following excerpt from the exhibited materials:

"The term value capture is widely used and covers several different practices; this practice note does not attempt to define or discuss them all. In general, the use of planning agreements for the primary purpose of value capture is not supported as it leads to the perception that planning decisions can be bought and sold and that planning authorities may leverage their bargaining position based on their statutory powers.

Planning agreements should not be used explicitly for value capture in connection with the making of planning decisions. For example, they should not be used to capture land value uplift resulting from rezoning or variations to planning controls. Such agreements often express value capture as a monetary contribution per square metre of increased floor area or as a percentage of the increased value of the land. Usually the planning agreement would only commence operation as a result of the rezoning proposal or increased development potential being applied."

The above position threatens to undermine Council's current policy framework for planning agreements, which applies value sharing based on a percentage of a pre-determined rate of value uplift per square metre (in the CBD), or on 50% of value uplift on a site-specific basis (outside CBD). The position proposed in the draft Practice Note has significant risks for Council and the community.

The draft Practice Note acknowledges that "planning agreements redistribute the costs and benefits of a development". Council considers that value sharing is a reasonable and transparent method by which to accomplish this redistribution. Value sharing provides a transparent and equitable mechanism upon which Council can ensure that the benefits associated with increasing development potential are shared by everyone, and that communities are not inappropriately burdened by too much development and not enough infrastructure.

Strategic infrastructure and land use planning has clearly shown that traditional developer contributions will not be sufficient to provide the infrastructure required for a particular area, and that a more innovative solution, which may depend in part on Planning Agreements, is required.

This matter is of particular concern with regards to the Parramatta CBD planning framework, which is structured around a "Community Infrastructure" policy that sees "incentive" density controls made available provided that developers have made an appropriate contribution to community

infrastructure in the Parramatta CBD. The rate upon which this Community Infrastructure contribution is based on a value sharing approach, and was set through an extensive policy process, has:

- a) sought to advance, as a key principle, an equitable portion of the land value created through planning decisions should be shared back with the community, in order to help provide the infrastructure required to support the higher level of development;
- b) transparently contemplated a value sharing approach from its inception;
- c) quantified in a transparent manner both the infrastructure requirements associated with growth in the Parramatta CBD and the extensive value uplift created through the increase of planning controls;
- d) included extensive development feasibility analysis to resolve a rate which does not limit realisation of the development outcomes envisioned through the planning framework;
- e) been confirmed as feasible and acceptable to the development industry with extensive evidence, namely the multiple site-specific VPAs that have already been negotiated with applicants of site-specific Planning Proposals in line with the value sharing framework; and
- f) recognised that value sharing will only help "close the gap" in terms of infrastructure – it will by no means fund all of the infrastructure required to support the realisation of Parramatta CBD as the heart of Sydney's Central City.

Council considers the above to be a best practice planning approach, and therefore **strongly objects** to the draft Practice Note on the basis that it threatens to undermine the above work that will support the delivery of necessary infrastructure in the City.

Of additional concern is that fact that Department of Planning, Industry and Environment (DPIE) has issued a Gateway determination for the Parramatta CBD Planning Proposal which includes the Community Infrastructure framework outlined above. Urgent guidance is required from DPIE on the implications for the Parramatta CBD Planning Proposal in light of the draft Practice Note and its direction about value sharing.

Council's negotiation of Planning Proposals in areas outside the Parramatta CBD is also threatened by the position put forward in the practice note. Council has adopted a 50% value sharing approach as the foundation for Planning Agreement negotiations in these areas, ensuring that there is transparency, consistency and equity across negotiations at different development sites. With the loss of value sharing as a consistent basis for negotiations in these areas, there is a risk in perception that "different deals" are being done on different sites.

The draft Practice Note threatens to undermine Council's current Planning Agreements policy and practice of negotiating funding and delivery of infrastructure. The likely risks / impacts of this draft Practice Note coming into force without significant change are.

- a) **Significant impacts to Council's financial position:** With the loss of its value sharing policy as a basis for VPAs, Council would be at a severe disadvantage in terms of its current and immediate future VPA negotiations. There would be an immediate need to fund infrastructure from other sources.
- b) **Urgent policy review required:** There would be an urgent need to prioritise a review of Council's entire development contributions / planning agreements policy framework to account for the loss of value sharing as a policy approach. This would significantly delay the progression of the Parramatta CBD Planning Proposal which implements a planning framework of regional significance by establishing the foundation for Council's Central City CBD and would delay work on other key strategic precincts.

It is noted that the potential outcome of this policy review, if the proposed measures are put into effect as exhibited, would be either an increased section 7.12 levy or a move to a section 7.11 plan. However, both of these plans have limitations that impact on the ability of Council to fund critical CBD infrastructure. In either case it would disproportionately impact development under the current planning controls. Instead of focusing on sharing a portion of the value uplift created through planning decisions, impacting only those who have benefited from the increased density and elect to take up that development option, it would impact on all development. One advantage of Council's value sharing framework is that it does not disproportionately impact development under current planning controls, but instead focuses on sharing a portion of the value uplift created through planning.

- c) **Less infrastructure for communities:** In the time that would elapse while Council undertook the policy review and funds-sourcing exercises described above, the development pressures in Parramatta are such that it would be difficult to prevent development (particularly in high growth precincts) from pressing ahead to await the outcomes of this work. The realistic outcome of this would be that communities - particular those in high growth precincts - would be required to shoulder more growth without the requisite infrastructure to support this growth. The existing community would bear the burden of the density and of having to fund a higher proportion of the cost of what infrastructure is provided.

Recommendations

1. Council **strongly objects** to the proposals in the draft Practice Note.
2. Council recommends that discussions be held with the DPIE on how the substantial amount of work already carried out in collaboration with DPIE on Council's proposed measures in the CBD Planning Proposal can be built on, to ensure delivery of the infrastructure needed as the City continues to rapidly grow without imposing new impediments to that growth.
3. Council recommends that value sharing be reinstated as an acceptable approach upon which to base Planning Agreement negotiations.
4. Council recommends that the draft policy framework currently exhibited not be enacted and that a new amended framework be prepared which:
 - a. Includes a more holistic review of infrastructure contributions.
 - b. Acknowledges that different policies or mechanisms may be required for different areas of NSW. Delivering infrastructure in an urban infill setting bears little resemblance to delivering infrastructure in a greenfield setting, and a flexible policy framework that recognises these differences is required.
5. Council recommends the NSW Government issues strengthened guidance about negotiation practice and administration of Planning Agreements, such as independent third parties, cost recovery, dispute resolution, probity and other matters.
6. Council recommends that, if the draft Practice Note is finalised with only minor changes, the DPIE needs to urgently provide clarity about the implications for current Planning Proposal processes underway, and appropriate transitional arrangements need to be put in place. Most urgently, there is a need to reconcile the Gateway determination for the Parramatta CBD Planning Proposal framework with the draft Practice Note.

B. Improving the review of local infrastructure contributions plans discussion paper

Summary of the proposal

Under the *Environmental Planning and Assessment Act (Local Infrastructure Contributions) Direction 2012*, maximum thresholds for section 7.11 contributions have been capped at the following:

- \$20,000 per lot/dwelling in urban infill areas, and
- \$30,000 per lot/dwelling in identified urban release/greenfield areas.

These thresholds have not changed since their introduction, despite the capital and land costs of delivering infrastructure having increased significantly.

Currently, development contributions plans seeking to impose contributions above the \$20,000 threshold per lot/dwelling in urban infill areas (such as the City of Parramatta) are required to be reviewed by the Independent Pricing and Regulatory Tribunal (IPART) to ensure they are reasonable and only include essential infrastructure.

The discussion paper identifies the following reforms to the process described above:

- Increasing the local development contributions threshold for IPART review of plans;
- Apply an annual indexation adjustment to the IPART review threshold; and
- Updates to the IPART terms of reference for contributions plan reviews, aimed at improving the efficiency and speed of the review process.

Commentary on the proposed changes

Council is generally supportive of the proposals to increase the contributions threshold and apply annual indexation. Detailed comments against each of the proposals outlined in the discussion paper are outlined in the table below:

Issue / Proposal	Commentary
<p>Increase the value thresholds that trigger the review process</p> <p>Options:</p> <ol style="list-style-type: none"> 1. Index the existing \$20,000 and \$30,000 per lot/dwelling thresholds by the ABS Consumer Price Index 2. Increase the thresholds to \$35,000 per lot/dwelling and \$45,000 per lot/dwelling in greenfield (urban release areas). 	<p>Proposals to increase the current thresholds are welcomed as the \$20,000 threshold that is applicable to infill/transitional councils has not been indexed since 2008. Meanwhile, the capital and land costs of delivering infrastructure have significantly increased.</p> <p>For example, Council's contributions plans applying to Carlingford and Epping Town Centres have rates capped at \$20,000 despite the actual share of infrastructure costs for these development being higher.</p> <p>The current threshold has meant that Council is not able to impose contributions that are fully reflective of the infrastructure costs created by demand from these developments without having the plans undergo</p>

<p>3. Implement one single threshold of \$45,000 for all IPART reviewed contributions plans.</p>	<p>a lengthy IPART review, which would limit the works in these plan to the 'essential works list'.</p> <p>Council prefers the higher threshold of Option 3 as it provides greater flexibility to councils to meet the costs of delivering growth infrastructure in urban areas. Option 3 also removes the complexity of administering different rates for greenfield and urban infill areas.</p>
<p>Implement an annual indexation mechanism for the thresholds that trigger the review process, based on the CPI.</p>	<p>Council supports the application of annual indexation to the threshold. This is critical to ensure the threshold keeps pace with increases in the cost of delivering infrastructure in real terms.</p> <p>However, Council questions the use of the CPI index as the mechanism, given that the discussion paper itself recognises that this index does not fully reflect the actual increase in infrastructure delivery and land costs as it is based on increase in prices of general household expenditure.</p> <p>Council accepts that CPI is commonly used in current planning practice, however, notes and agrees with the discussion paper's acknowledgment that CPI does not keep pace with the increase in infrastructure delivery and land costs. Therefore, alongside the introduction of Option 3 (as above), Council supports the introduction of the alternate indexation mechanism of the Building Price Index.</p>
<p>Review the IPART terms of reference.</p>	<p>The City of Parramatta does not currently have any IPART reviewed plan. Notwithstanding this, the proposal to review the current IPART terms of reference to remove duplication with practice notes and streamline the process is supported in principle.</p>
<p>Remove existing exemptions to the review process, known as 'grandfathered contributions plans.</p>	<p>The City of Parramatta is not affected by these proposed changes as none of the plans applying in the LGA are currently exempted.</p>
<p>Remove existing requirement for councils to re-exhibit an IPART reviewed contributions plan following the receipt of advice from the Minister's nominee. See also detailed paper on proposed amendments to the EP&A Regulation.</p>	<p>The City of Parramatta does not currently have any plans currently going through an IPART review process. Notwithstanding this, the proposed changes are supported in principle as it will help streamline the review process.</p> <p>The current IPART review process can take up to 12-18 months as outlined in the discussion paper. Delays in implementing a reviewed development contributions plan can result in Councils foregoing potential revenue, which could impact on Council's ability to deliver local infrastructure.</p>
<p>Other comments</p>	<p>While the proposed reforms to improve the speed and efficiency of the IPART review have merit, consideration also needs to be given to expanding the list of 'essential infrastructure' used to determine the reasonableness of a plan.</p>

	<p>Currently the essential works list is limited to land costs, including for open space and community facilities, and 'base level' embellishment of open space. This is too limited and does not take into account the high cost of land acquisition in urban infill areas, such as the City of Parramatta. In such locations, only limited land acquisition is feasible, and other types of capital investment are necessary to meet needs in a more cost effective way, such as the redevelopment and expansion of existing facilities.</p> <p>The combined total of these capital costs in capital works programs is significant, and it is essential that contributions plans can levy new development for their fair share of these costs, especially in light of the limitations that could be placed on planning agreements if the draft <i>Planning agreements practice note</i> was introduced in its current form (refer to Council's separate comments on this issue).</p> <p>Retaining the current limited 'essential works list' would limit the ability of IPART reviewed plans to adequately deliver the infrastructure needed in a reasonable way. It is recommended that the list is expanded to include capital costs such as those associated with the construction of libraries and indoor recreation facilities, to reflect the realities of providing necessary infrastructure in urban infill areas.</p>
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Council recommendations

1. Council supports the proposal to increase the contributions threshold and to apply annual indexation. Of the three options to increase the threshold, Council recommends the third option to increase the cap to \$45,000 across the state.
2. Council supports the annual indexation of the contributions threshold, in line with the rising cost of delivering infrastructure. We recommend that the Building Price Index be the chosen mechanism for thresholds and should be reviewed periodically to ensure that it remains relevant and reflects other factors that affect infrastructure delivery, such as increased in land values.
3. While the proposed reforms to improve the speed and efficiency of the IPART review have merit, it is recommended that the list of 'essential infrastructure' that IPART uses to determine the reasonableness of a plan is expanded to include capital costs for infrastructure and not just land costs, to reflect the realities of providing necessary infrastructure in urban infill areas.

C. Criteria to request a higher section 7.12 percentage discussion paper

Summary of the proposal

The discussion paper proposes criteria for considering an increase to the existing section 7.12 levy from the default maximum 1% arrangements currently set out in the Regulation.

The criteria for seeking to apply a higher maximum levy to an area is centred around three principles:

- The area needs to be identified in a strategic plan;
- Needs to demonstrate significant employment growth; and
- The proposed planning controls in these areas need to support such growth.

Commentary on the proposed changes

Below is a table of Council's response to principles for a higher levy in the discussion paper:

Table C1 – Principles to guide process for Applying for Increase in the Section 7.12 rate

Issue / Proposal	Commentary
General overview	<p>The City of Parramatta supports in principle the development and publication of criteria to assist in preparing requests to increase s7.12 levies under the Act and Regulation. There has been a lack of clear guidance to councils seeking an increase in s7.12 levies since these levies were implemented under the predecessor s94A of the Act.</p> <p>Publication of criteria for assessment will provide a consistent method within which councils seeking increased s7.12 levies can base their business cases; including internal consultation and seeking endorsement from their respective Councils.</p>
Principles for a higher levy 3.1 Identification within a Strategic Plan	<p>Identifying areas within a strategic plan that warrant a higher s7.12 levy is supported in principle.</p> <p>Council agrees with identifying areas within a Regional or District Plan, and also recommends allowing a Local Strategic Planning Statement (LSPS) to be a suitable strategic document to support justification for a higher s7.12 levy. The LSPS has to receive concurrence by the Greater Sydney Commission under the Act prior to it becoming operational. This additional rigour ensures that the LSPS is not just a Council-initiated strategy but has sign-off from the GSC. Identifying the LSPS as a suitable strategic document will support applications for a higher S7.12 levy to be progressed in a timely manner, in circumstances where strategic planning priorities have changed outside of District Plan and Region Plan review cycles.</p>

<p>Principles for a higher levy</p> <p>3.2 Significant Employment Growth</p>	<p>Significant employment growth is only part of the equation. S7.12 levies work well where there is consistent dispersed infill growth and, arguably, a low rate of apportionment of local infrastructure to the new population – despite the fact that the area is likely to experience high growth over time.</p> <p>In the case of Parramatta CBD, for example, high growth is anticipated under the Parramatta CBD Planning Proposal, with nearly doubling of both the residential and workforce populations. At best, apportionment rates for new local infrastructure can make a traditional s7.11 plan problematic as the unfunded component for the benefits derived to the existing population has to be found elsewhere.</p> <p>The principle should be amended to enable consideration of significant residential, employment and visitor growth to warrant consideration of a higher s7.12 levy – thereby allowing councils the discretion to apply a s7.11 or s7.12 plan in high growth or transformative areas.</p>
<p>Principles for a higher levy</p> <p>3.3 Local Planning Controls will need to support growth</p>	<p>The principle for local planning controls to support growth is understood as a 'quid pro quo' arrangement to justify the increase in the levy.</p> <p>There is no objection to this principle as any concession by the Government to increase the impost on development to provide for local infrastructure must, in turn, be met by councils agreeing to support growth in the areas where a higher levy may apply.</p> <p>The process to enable a review of the boundary where an increased levy applies needs to be streamlined to take account of future expansion. Council has a case study of the issues that can arise. In the case of Parramatta CBD, the current boundary is set by the, now repealed, <i>Parramatta City Centre Local Environmental Plan 2007</i>. The draft Parramatta CBD Planning Proposal and CBD Strategy identifies an expanded CBD area – larger than the existing area under the former LEP 2007. A process to enable an existing boundary of a higher s7.12 levy area to be adjusted or reviewed needs to be comparatively efficient and reflective of the changes to planning controls. In cases like this one a straightforward process for transitioning to an expanded area should be included in the process.</p>

The following table outlines Council's response to the proposed criteria in Part 4 of the discussion paper:

Table C2 – Criteria that must be met when applying for an increase in the Section 7.12 Rate

Issue / Proposal	Commentary
Criteria to be achieved for a 2% Section 7.12 Plan to be endorsed	
C1.1 The area must be identified in the relevant strategic plan	This criteria is supported. It is recommended that the relevant strategic document in which an area is identified is regularly reviewed. Refer to detailed comments above in Table C1 on this issue.
C1.2 The strategic plan must include a 'significant' employment growth target for the centre	<p>This criteria should be identified as best practice but should also make reference to residential growth targets for reasons set out in the previous table above.</p> <p>Applying a nominated target can set some plans up to fail as councils overestimate the yields to ensure success. Additionally, a target based on a strategic document is inevitably only a snapshot of data at a point in time. The circumstances could change at short notice (e.g. a downturn in the market), making the assumptions obsolete. This criteria is further discussed in the table C3 below in response to discussion question 3.</p>
C1.3 Local planning controls must reflect relevant strategic direction and targets for the centre	This criteria should be identified as best practice. Whilst having both the strategic planning document and the contributions plan come into effect at the same time is ideal, this is not always possible. An increased levy in a s7.12 contributions plan should only come into effect after the revised planning controls have also come into effect.
C1.4 The contribution plan should focus primarily on delivering quality place-based community infrastructure and improvements that enhance amenity of the centre	This criteria is supported and should be identified as best practice.
C1.5 Plan administration cost must not exceed 0.2% of total value of the contributions plan.	<p>Council supports in principle having some administrative costs being recoverable under a s7.12 Plan. This is currently the case under s7.11 plans. Section 7.12 plans still requires substantial administration resources across several branches of Council – including land use planning, finance, and assets, to ensure the Plan is maintained and kept up-to-date.</p> <p>Section 7.12 plans also require rigorous validation of cost estimates/QS reports under Clause 25J of the Regulation. This incurs a sizeable administrative overhead particularly for (a) large-scale developments and (b) in cases where Applicant and Council dispute the cost estimate.</p> <p>It is therefore recommended that the maximum administrative cost able to be funded by the plan be increased to 1.5% as this is consistent with IPART's benchmark on this matter*, and would provide Council with more resources to administrate</p>

	<p>such plans. It is also noted that this is the amount proposed for administration of the State's contribution plans (i.e. Special Infrastructure Contributions).</p> <p>(* from IPART's <i>Local Infrastructure Benchmark Costs: Costing Infrastructure in Local Infrastructure Plans</i>, April 2014)</p>
C1.6 The contributions plan should clearly set out the relationship between the expected types of development in the area and demand for additional public amenities and services	This criteria is considered reasonable as the imposition of contributions (whether s7.11 or s7.12) needs to demonstrate a relationship between new development and the provision of new, or augmentation of existing local or district infrastructure. The test should not need to be as codified as the "nexus" tests for s7.11, but Council accepts that there still needs to be the establishment of a relationship of some sort between the development and the local infrastructure.
C1.7 Demonstrate that s7.11 has been considered and why it is not appropriate in this area	This criteria should be identified as best practice. In the case of the City of Parramatta, Council currently operates a mix of s7.11 and s7.12 plans. A Section 7.11 plan requires a higher standard to be achieved in terms of nexus, apportionment and the reasonableness of the plan. In higher growth areas this should always be the preferred type of plan and Section 7.12 should only be implemented in circumstances where the Section 7.11 plan can not be justified.
C1.8 Include a financial analysis that demonstrates a 1% fixed levy is insufficient, and forecast the revenue outcomes for a higher percentage levy	This criteria is supported. Any requests for higher levies need to be justified to Council and the community as a reasonable proposition. Demonstration of the need to increase the levy through financial validation will ensure that a council has tested alternatives and is not just seeking a higher levy out-of-hand.
C1.9 Changes to the works schedule require approval from the Minister	This criteria is not supported. Approval of a works program, or revisions to the works program by the Minister is overly cumbersome and inefficient, particularly if only minor changes to the works program are proposed (e.g. items removed and some added in as the consequence of a periodic review). If the demand/growth is still present, then changes to the works program to ensure sufficient local infrastructure is provided should not require the intervention of the Minister.
Additional Criterial to be achieved for a 3% Section 7.12 Plan to be endorsed	
C2.1 The contribution plan must include funding and delivery of district-level infrastructure, representing at least 10% of total value of the contributions plan	This criteria is further discussed in the Table C3 below in response to discussion question 5 and 6.
C2.2 The works schedule must be prepared in consultation with the Department to identify potential district-level infrastructure	This criteria is supported in principle.

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The following table outlines Council's response to the discussion questions included in the discussion paper:

Table C3 – Discussion Questions on the Proposed new Section 7.12 Policy Framework

Issue / Proposal	Commentary
<p>Discussion Questions</p> <p>1. Should all the criteria be mandatory for a s7.12 plan to be considered for a higher percentage levy?</p>	<p>A comment on each of the criteria proposed to be put in place as part of the process for applying for 2% or 3% Section 7.11 contribution plan is provided in the previous table above</p>
<p>Discussion Questions</p> <p>2. Are there any alternative criteria that should be considered?</p>	<p>C1.2 should consider opportunities for significant residential and visitor growth as well, not only employment growth. This is discussed in detail in Table C1.</p>
<p>Discussion Questions</p> <p>3. Considering the different ways 'significant' employment growth can be measured, what would be the most effective?</p>	<p>The exhibition document sets out a number of methods for assessing whether proposed employment growth is "significant". All the methods included are valid, and the test should be an "or" rather than an "and" test, thereby enabling a council to meet one or more of the tests to be successful, rather than Council having to achieve one particular method which may not be relevant to that particular Councils context.</p>
<p>Discussion Questions</p> <p>4. Refer to Criteria C1.9 in Table C2 above: Is this requirement necessary? Are there other mechanisms that would ensure ongoing monitoring and review?</p>	<p>This requirement should not be mandatory unless there is sufficient delegation provided to relevant staff in the Department.</p> <p>Ministerial intervention and oversight on revisions to the works program is considered to be inappropriate, inefficient and an onerous burden.</p>
<p>Discussion Questions</p> <p>5. Refer to Criteria C2.1 in table C2 above: District level infrastructure remains generally undefined. Should the Department publish a list of acceptable district-level infrastructure items or should it be determined on a case by case basis?</p>	<p>The Department should provide guidance on what constitutes suitable district-level infrastructure. This guidance should include thresholds that could be met in response to the suitability of a local area. For example, provision of a central library or large branch library may be district-level infrastructure; but the amount (e.g. floor space) and capability of the facility will depend on the location and demand of the area. The size and capacity of a central library in the City of Parramatta may need to be of an entirely different scale to one in, say, the Blue Mountains.</p>
<p>Discussion Questions</p>	<p>The 10% minimum threshold for district-level infrastructure as a proportion of the total contributions plan is reasonable.</p>

<p>6. Refer to Criteria C2.1 in table above: Is 10% of the total value of the contributions an appropriate amount to be allocated for the provision of district level infrastructure? Should this be desirable rather than mandatory?</p>	<p>For areas that are undergoing significant growth and transformation, e.g. Parramatta CBD, the capacity to meet this criteria would not be difficult.</p>
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Council recommendations

1. Council supports, in principle, the development and preparation of criteria to assist in preparing requests to increase section 7.12 levies under the *Act* and the *Regulation*. Council supports the criteria for areas to be identified within strategic documents, including regional and district plans, to be considered for increased levies. Council recommends that these strategic documents be periodically reviewed to allow for changes in circumstances and the inclusion/removal of areas within these documents
2. Council recommends that opportunities to negotiate for a higher S7.12 rate be established to allow for an increased levy above the maximum 3%. A higher rate will ensure that Council will be able to deliver the necessary infrastructure to support growth in the Parramatta CBD as the major centre of the Central City District.
3. Council recommends that the recently adopted Local Strategic Planning Statement (LSPS) be considered as a valid strategic document to warrant consideration of higher section 7.12 levies.
4. Council recommends that the proposed maximum administration cost under a section 7.12 plan be increased from 0.2% to 1.5%, being consistent with IPART's benchmark on this matter and the proposed amount for administration of the State's contribution plans under the draft SIC guidelines.

D. Draft Special Infrastructure Contributions (SIC) guidelines

Summary of the proposal

Special Infrastructure Contributions (SIC) play an integral role in the delivery of State infrastructure through development contributions collected by the State Government. The draft SIC guidelines seek to provide guidance and clarity on the following:

- The purpose and objectives of the SIC framework applying to current SICs and the development and implementation of prospective SICs;
- The key principles guiding the State Government in implementing the SIC framework;
- The method for determining a new SIC;
- The process for allocating SIC revenue to infrastructure once a SIC has been determined.

Commentary on the proposed changes

Issue / Proposal	Commentary
Key principles of a SIC	Council supports the key principles proposed under the draft SIC guidelines.
Key components of a SIC: Apportionment	<p>Council supports the principle of apportionment to ensure developers are not charged to fund resolution of historical infrastructure shortfalls, however clarification and/or justification should be provided regarding the benchmark percentages shown below for costs and contingencies:</p> <ul style="list-style-type: none"> • Roads – benchmark of 40% • Active transport – benchmark 40% within a road or 30% elsewhere • Open space embellishment – benchmark 30% • Social infrastructure and community facilities – benchmark 20% <p>It is not clear why these are appropriate or how they were arrived at.</p>
Public consultation and transparency	<p>Council supports the public consultation of any draft SIC prior to its implementation, to enable feedback and collaboration with State government. However, there are concerns that if consultation is only offered at the public exhibition stage, then councils would have missed the opportunity to have crucial involvement in the planning of infrastructure that would ultimately affect its community.</p> <p>There should be collaboration between councils and the DPIE throughout the SIC planning stage to ensure that both State and Local governments work in a coordinated approach to achieve the most beneficial outcomes for the community and that infrastructure needs of both State and Local are made certain as part of this process. The establishment of guidance for active consultation between State and Local governments would also provide the opportunity for Council to ensure that local infrastructure needs are not superseded by SIC infrastructure.</p>

Expending of SIC revenue	Council supports the annual publication of SIC revenue and expenditure in the interest of transparency and accountability. However, there are currently no legislative requirement for the NSW Government to report on the accounting of SIC contributions in the same capacity which local councils are required to. It is recommended that the requirements for the NSW Government to report on SIC accounting be included as an amendment to the <i>Regulation</i> to guarantee transparency and accountability.
Expending of SIC revenue	Council notes that the <i>Draft SIC Guidelines</i> do not provide any information on the pooling of SIC funds across Greater Sydney or across NSW. A potential advantage of pooling SIC funds across multiple SIC areas is that priority projects in particular areas can be delivered earlier using pooled funds. The City of Parramatta's position in metropolitan strategic planning frameworks would make it an appropriate recipient for projects funded by pooled funds. If pooling is a policy option that DPIE is considering, Council recommend that the Guidelines provide transparent guidance on how pooling and SIC funds allocation processes would operate.
Other matters	<p>City of Parramatta is experiencing unprecedented growth and is identified in a number of strategic documents as the Central City CBD. Growth in Parramatta is already proceeding. Council is managing over 60 site specific planning proposals as well as expecting to exceed its dwelling targets by approximately 4,000 dwellings by 2036 (reference Council's LSPS 2020). Moreover, major infrastructure is already being planning and constructed (i.e. Parramatta Light Rail and the Sydney Metro West).</p> <p>Council also notes that DPIE publically announced in a 2015 a potential rate of \$200/sqm for the SIC associated with Parramatta Light Rail. However, the SIC has not yet been implemented. Council is concerned about the growing lost opportunity cost associated with delay of releasing the SIC. Therefore, Council requests that a SIC be implemented in the City of Parramatta and, that before its implementation, Council be consulted as part of that process, in accordance with the <i>Draft SIC Guidelines</i>.</p>

Council recommendation

1. Council seeks further clarification and/or justification regarding the benchmark percentages for apportionment costs and contingencies.
2. Council recommends that consultation between State and Local governments take place throughout the entire process for the preparation of a SIC, not only at the public exhibition phase.
3. Council recommends that reporting of SIC accounting be made mandatory through amendments to the EP&A Regulation, consistent with the requirements for councils to report on local infrastructure contributions.
4. Council recommends that further guidance and clarity be established in relation to the pooling of SIC funds and their expenditure.

5. Council requests that the SIC proposed for the City of Parramatta area to fund major infrastructure to support growth be progressed in consultation with Council, in accordance with the *Draft SIC Guidelines*.

E. Proposed amendments to the EP&A Regulation

Summary of the proposal

The proposed amendments to the EP&A Regulation seek to improve the following:

- Reporting and accounting of local infrastructure contributions received and spent by Council, including in-kind works and contributions received as part of planning agreements;
- The making of contributions plans requiring an IPART review.

Commentary on the proposed changes

Below is a table of Council's response to the proposed amendments to the Regulation, as outlined in the Policy Paper:

Issue / Proposal	Commentary
<p>Improve reporting on development contributions</p> <p>It is proposed to amend the EP&A Regulation to:</p> <ul style="list-style-type: none"> • Require reporting by councils on development contributions including works in kind and land dedications rather than just monetary contributions • Require more detailed reporting on infrastructure contributions such as specific project and location. • Require councils to publish contributions plans, indexed s7.11 contribution rates, annual statements, and contributions registers on their website or on the NSW Planning Portal. <p>Improve reporting on contributions received via planning agreements</p> <p>It is proposed to amend the EP&A Regulation to:</p> <ul style="list-style-type: none"> • Require planning authorities to provide additional reporting and accounting information for planning agreements. • Require planning authorities to publish a Register of Agreements, copies of planning agreements and annual reports on their website or on the NSW Planning Portal. 	<p>The City of Parramatta recognises the public benefits of including additional information on development contributions and planning agreements.</p> <p>Further guidance to councils on the detailed reporting requirements will be necessary to ensure there is sufficient clarity around the nature and format of the information to be reported. It is important that the additional requirements are streamlined into existing accounting and reporting activities of councils</p> <p>To minimise the potential resource burden on councils further clarity is needed on:-</p> <ul style="list-style-type: none"> • the intended timeframe for introducing the additional reporting requirements to enable councils time to put in place the necessary processes. • whether they would be applied retrospectively to existing executed Planning Agreements and contributions already collected. Applying the requirements to contributions collected and agreements previously entered into would have significant resource implications for council, particularly given that council currently operates a number of contributions plans and manages numerous Planning Agreements that were inherited from neighbouring councils, following council boundary changes in May 2016.

<ul style="list-style-type: none"> Remove prescriptive requirements related to explanatory notes for proposed planning agreements and address through a Practice Note. Require explanatory notes for planning agreements to be prepared in accordance with the Practice Note. 	
<p>Changes associated with the proposal to streamline the process for making a contribution plan following receipt of the Minister's (or Minister's nominee) advice.</p>	<p>The City of Parramatta supports in principle the proposed streamlining of the IPART review process to expedite the implementation of contributions plans.</p> <p>See Council's separate comments on <i>Improving the review of local infrastructure contributions plans</i>.</p>
<p>Limit the maximum percentage s7.12 levy that can be imposed in Gosford City Centre. Update the cl 25K outdated reference to Wollongong City Centre LEP.</p>	<p>We note the proposals to amend the Regulations to limit the maximum percentage s7.12 levy that can be imposed in Gosford City Centre from 4% to 1%, following introduction of a Special Infrastructure Contribution (SIC) in October 2018 to fund regional infrastructure.</p> <p>Whilst this proposal does not directly impact the City of Parramatta, it is not clear from any of the consultation documentation whether the NSW Government is considering taking a similar approach in other areas where a SIC could be introduced and a higher s7.12 rate currently applies (such as within the Parramatta City Centre). Council seeks clarification as to the NSW Government's intentions for the operation of s7.12 levies in areas where SICs are introduced. Reductions to existing s7.12 rates in the Parramatta City Centre would have significant negative impacts on Council's ability to fund and deliver necessary local infrastructure in growth areas.</p>

Council recommendations

1. The proposed changes are supported in principle. However, Council recommends that further guidance is needed to ensure councils have sufficient clarity on how the new requirements need to be implemented. Council is of the view that any expanded reporting requirements should not be applied retrospectively to contributions that have already been collected.
2. Council recommends that the planning agreements practice note should also provide greater clarity on the recovery of administration costs associated with the preparation and administration of planning agreements to support Council meeting the additional reporting obligations.
3. Council seeks clarification as to the NSW Government's intentions for the operation of section 7.12 levies in areas where SICs are introduced.

3. CONCLUSION

Council is generally supportive of a review of the current infrastructure contributions system and consider that it represents an opportunity for a holistic review and updating of the existing system.

However, whilst Council is generally supportive of the proposed changes outlined in the five documents, there are a number of key concerns and issues outlined in the submission that require further consideration and analyses to ensure that appropriate infrastructure delivery is possible to serve our growing community. This is of particular concern in relation to the planning agreements framework and the issues revolving around value capture as a base for planning agreements policy.

If the proposed changes under the Infrastructure Contributions Review are introduced as exhibited, they will require a complete review of Council's Planning Agreements Policy. This would disrupt the flow of contributions as the LGA continues to rapidly develop. It is vitally important that transitional arrangements are introduced to avoid such negative effects which would potentially result in either the failure to deliver supporting infrastructure and/or burdens being placed on Council finances to meet associated funding gaps. This is particularly relevant to the Parramatta CBD Planning Proposal where to date Council has been working constructively with the Department of Planning, Industry and Environment to deliver the Central City CBD in accordance with State and Regional Strategies.

That said, Council sees this Review as a step in the right direction towards a deeper and more holistic review of development contributions in NSW.