



Our reference: Infostore  
Contact: Natalie Stanowski  
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7 February 2022

Ms Kate Speare  
Director- Infrastructure Funding Policy  
Department of Planning, Industry & Environment  
Locked Bag 5022  
PARRAMATTA NSW POSTCODE

Sent by email: [kate.speare@planning.nsw.gov.au](mailto:kate.speare@planning.nsw.gov.au)

Dear Kate,

### **Infrastructure Contribution Reforms Exhibition Package**

Council considered a report at its ordinary meeting on 22 February 2022 in relation to the Infrastructure Contributions Reforms exhibited by the Department of Planning, Industry & Environment (DPIE). This letter provides Councils endorsed feedback on the matter and supersedes our previous staff technical submission that was made in good faith.

We seek to highlight particular concerns of Council including:

- Proposed methods of indexing land costs.
- The introduction of the Land Value Contribution.
- Impacts of the RIC on existing infill areas.
- Administrative implications for submitting contributions plans for gateway determination.
- The continued exclusion of community facilities from the essential works list.

DPIE is to be commended on initiating reforms in the area of infrastructure contributions, and we seek to continue working with DPIE into the future on these reforms.

If you have any questions about this matter, please contact me at [natasha.borgia@penrith.city](mailto:natasha.borgia@penrith.city) or on 4732 8593.

Yours sincerely

**Natasha Borgia**  
City Planning Manager

Overarching Comments	
<p><b>“No Council will not be any worse off”</b></p>	<p><i>The promise made by the Minister for Planning and Public Spaces that Councils ‘will not be any worse off’ is welcomed and has been considered in the context of all the proposed reforms.</i></p> <ul style="list-style-type: none"> <li>- Council has engaged consultants to assist in determining the impacts of the proposed reforms, combined with the announced rates peg changes. This work can be shared with DPIE on request. Until such time the reviews currently underway by IPART (including the essential works list and benchmark costs) are finalised, we are unable to conclusively suggest that Council will be ‘no worse off’.</li> <li>- Whilst changes to the rates peg will assist Council to an extent to bridge any reductions of contributions, the increase in rates will not be enough to assist in the delivery of capital works for social &amp; cultural infrastructure, which have not been considered for inclusion in the draft updated essential works list.</li> <li>- There is concern with the implications of the proposed reforms on community and cultural facilities, particularly in completely new communities or in the example of the Aerotropolis, a new city. The reforms do not consider a complete picture of what infrastructure is development contingent in large new greenfield communities when there is no existing infrastructure. The reforms do not adequately support infrastructure that is development contingent in this context. DPIE must ensure that the infrastructure contributions system can deliver the vision of new and growing communities, community expectations and placemaking, consistent with district plans, structure and precinct planning and other planning policies.</li> </ul>
<p><b>Increasing the costs for existing infill development and knock-down rebuilds</b></p>	<p><i>The proposed RIC needs to be based on nexus and will not impact feasibility and housing affordability for infill development.</i></p> <ul style="list-style-type: none"> <li>- Council raises concern with the application of the proposed RIC to infill development within the Penrith LGA. The proposed RIC will apply further infrastructure contributions to infill developments of between \$15,000-\$17,000 per dwelling and additional costs for commercial, business and industrial development. These costs have never previously been applicable or accounted for.</li> <li>- Council is concerned about the impact of the RIC on development feasibility and housing affordability. While it is acknowledged that transitional arrangements are proposed, we remain concerned about the capacity for the market to pay both the RIC and Local Contributions, plus other charges and the impact this may have on the revitalisation of key centres and the delivery of sensitive infill development. The feasibility testing provided in the package contained examples of development in Penrith LGA and demonstrated the vulnerability of</li> </ul>

	<p>emerging centres such as St Marys and low value markets (i.e. Western Sydney) from the application of the RIC and other charges. This work does not provide certainty that there is not going to be an impact on established areas, particularly commercial or mixed-use locations.</p> <ul style="list-style-type: none"> <li>- Council does not support the application of the RIC to 'knock-down rebuild' development. Council does not believe a nexus argument can be established, as generally no additional development is being created. At face value, it appears that the application of the RIC in this instance is double dipping.</li> </ul>
<p><b>Achieving objectives of the reformed system</b></p>	<p><i>Support changes that will improve the infrastructure contributions system providing certainty, transparency, less complexity, efficiency and consistency. However, is it difficult to see where many of the proposed changes meet these aims.</i></p> <ul style="list-style-type: none"> <li>- Certainty is delivered in some areas (i.e. standardised indexation), however, nexus, the determination of the efficient use of land, the interpretation of the RIC does not provide certainty for the community.</li> <li>- The RIC program does not demonstrate a transparent process for the community or local government, concerning the probity of the program.</li> <li>- Several changes, such as the Land Value Contribution or requisition of a full contributions plan for gateway determination are onerous and do not demonstrate simple or efficient processes. For the Land Value Contribution, Council has received feedback from the community with that the process and implications of the contribution is difficult to understand.</li> <li>- The continued exclusion of community and cultural facilities from the essential works list does not demonstrate consistency.</li> </ul>
<p><b>ESSENTIAL WORKS LIST</b></p>	
<p><b>Community facilities in Essential Works List</b></p>	<p><i>Council does not support an essential works list that limits the delivery of community and cultural facilities that meet the needs of new and growing populations.</i></p> <ul style="list-style-type: none"> <li>- The proposed application of the essential works list to all s7.11 contributions plans has been deferred for further review by DPIE, and this is welcomed by Council. During this deferral period, it is recommended that DPIE reconsider the exclusion of community and cultural facilities from the essential works list. Community and</li> </ul>

	<p>cultural facilities are 100% development contingent, particularly for large greenfield developments and new cities, such as the Aerotropolis.</p> <ul style="list-style-type: none"> <li>- In Councils recent submission to IPART on the essential works list, the following comments were provided in relation to this matter, and should be considered by DPIE:</li> <li>- <i>It is understood that the terms of reference for the review specifically excluded the consideration of community and cultural facilities as an essential works list, notwithstanding, we wish to have noted our objection to its exclusion from consideration. This is based on the following:</i> <ul style="list-style-type: none"> <li>o <i>Community and Cultural Facilities meet the nexus principles provided in the IPART report. The need for new facilities is based on new development creating a demonstratable increase in the demand for community facilities.</i></li> <li>o <i>That there is no logical differentiation between providing land for a facility, but not the construction of the facility as is the case under the current EWL.</i></li> <li>o <i>For many large release areas, including the equivalent of new cities (such as the Aerotropolis within Penrith and Liverpool Local Government Areas), the population growth is such that 100% nexus can be established for such facilities.</i></li> <li>o <i>IPARTs final report on Review of the Rate Peg to include Population Growth Report specifically indicates that the increase to the rate peg is not going to be enough to cover capital works, and suggest council seeks special variation to provide facilities. It would not be considered acceptable to the broader community to pay for facilities when the need is generated by new development.</i></li> <li>o <i>This outcome may generate community concern that growth does not deliver the communities expectation of suitable infrastructure needed for communities.</i></li> </ul> </li> <li>- <i>The Draft Urban Design Guide exhibited as part of the Design and Place SEPP provides some discussion on the provision of high quality public facilities and open space. IPART should ensure that the EWL recognises all infrastructure identified in the Design and Place SEPP and guides that set a standard for good design outcomes.</i></li> </ul>
<p><b>Impacts of deferral of application of Essential Works List</b></p>	<ul style="list-style-type: none"> <li>- Penrith City Council has several contributions plans under preparation for locations transitioning from metropolitan rural areas or investigation areas to greenfield release precincts. Discussions have been underway with DPIE for some time to ensure these plans can be considered under Schedule 2 of the Minister's</li> </ul>

	<p>Direction for a higher cap rate applicable to greenfield release areas. Council seeks certainty from DPIE that this can occur under the announced delay to the EWL.</p>
<p><b>LOCAL CONTRIBUTIONS REFORMS</b></p>	
<p><b>Restriction on the approval of development applications if a draft contributions plan has not been prepared to support major rezoning.</b></p>	<p><i>Development Contributions Plans should be in place prior to development occurring in rezoning areas, however, mandating a relevant timeframe is not supported.</i></p> <ul style="list-style-type: none"> <li>- There is support for the restriction of development approvals where a development contributions plan is yet to be made. Recently, Council has had experience in implementing clauses 270 and 271 of <i>Environmental Planning &amp; Assessment Regulations</i>. It is through this experience that we provide comments:             <ul style="list-style-type: none"> <li>o We understand the intention of the clause is to support timely planning processes, however, the 'relevant timeframe' of 6 months is inadequate and unreasonable. This timeframe doesn't align with IPART timeframes and does not accommodate required planning processes such as exhibitions/re-exhibitions, briefings, reporting and review of supporting technical studies.</li> <li>o This clause must apply to all rezonings, including state led rezoning (i.e. through SEPPs)</li> <li>o DPIE should clarify if the clause is intended to apply to development for the purposes of subdivision or infrastructure works. It is recommended that the clause apply to all development types.</li> </ul> </li> </ul> <p><b>Recommendation: Support in Principle, with changes</b> – DPIE should consider combining Clauses 270, 270A, 271 of the existing regulation, applied to all new development within rezoning areas and remove the relevant time period.</p>
<p><b>Draft VPA to be exhibited with DA or Planning Proposal</b></p>	<p><i>This proposal is supported, as it is considered important for transparent planning processes to have both a VPA and Planning Proposal or DA on exhibition concurrently. Penrith City Councils Developer Infrastructure Agreements Policy is consistent with this approach. However, consideration must be given to the impact of this requirement on the timeframes on planning processes.</i></p> <ul style="list-style-type: none"> <li>- This proposed process is highly dependent on the reforms currently on exhibition for rezoning processes. Consideration of this matter needs to run parallel to these new reforms.</li> </ul>

	<ul style="list-style-type: none"> <li>- To exhibit a VPA concurrently, Council requires all information available to review and establish infrastructure needs, negotiate terms and in some instances negotiate asset delivery. These processes take time to consider and resolve.</li> <li>- Additionally, most Councils have specific internal processes with respect to the negotiation of VPAs, including reporting to specialist committees. This needs to be factored into application processing timeframes.</li> </ul> <p><b>Recommendation: Support in principle, consideration to be given of other planning processes.</b></p>
<p><b>Exemptions</b></p>	<p><b>All development that generates a need for infrastructure should be subject to the payment of infrastructure contributions</b></p> <ul style="list-style-type: none"> <li>- It is noted that existing exemptions from infrastructure contributions have been extended to include development for the state for schools, health service facilities, emergency service and public administration.</li> <li>- DPIE has not provided full justification for the exemption of such facilities. As we understand, the proposed exemption is based on the premise that the delivery of this infrastructure provides other benefits to communities. Concern is raised that the exemption of these developments does not align with nexus-based arguments.</li> <li>- The removal of these developments will create shortfalls in contributions plans. Councils will be forced to pass on any shortfalls created by these forms of development onto undeveloped land, which creates an equity issue. The exemption of these items will also impact income from Councils existing s7.12 Plan for non- residential development.</li> </ul> <p><b>Recommendation: Support the consolidation of exemptions, oppose additional exemptions. All development that generates a need for infrastructure should be subject to the payment of infrastructure contributions.</b></p>
<p><b>Standardised Indexation</b></p>	<p><b>Council supports a standardised approach to indexation, including the separation of indexes for works and land, however, the form of indexation must ensure that Councils can continue to deliver infrastructure as required and will not be left with a shortfall.</b></p> <ul style="list-style-type: none"> <li>- Concern is raised on the proposed method of indexation for land, using the Valuer Generals Land Value Index (LVI). The decision to use this index, and how this will provide Council suitable funds to purchase land has not been clearly demonstrated in the exhibition package.</li> </ul>

- Serious concerns are raised on the ability for Councils to purchase property, as required through the *Just Terms Compensation Act* (i.e. the purchase of property at market rate) and the ability for the LVI to keep up with this cost. If Councils are to be 'no worse off', Councils ability to purchase land for infrastructure is a key matter. DPIE is sought to justify and address this matter.
- DPIE should provide further justification in respect to the proposed annual indexation approach for Section 7.11 plans and how this will impact Council and developers over time. It is considered more appropriate to seek quarterly indexation, such as what most Councils implement currently and what is proposed for a 'local levy'.

**Recommendation: Oppose proposed land index, support works indexation with changes.**

**Land Value Contribution**

*Council supports the ability to obtain funding for land early in the development process. However, the process must also be user friendly, flexible, provide Council with adequate funds to purchase lands through Just Terms processes and be acceptable to the community.*

- The process for Land Value Contributions (LVC), as exhibited, is difficult to interpret and is challenging for the broader community to understand. The process does not appear fully resolved and there are concerns for Councils future ability to have sufficient funding to purchase land at market rate. It is noted that the LVC is optional for Councils. It is unlikely that Council would seek to implement the LVC in its proposed form.
- Council does not support setting a maximum percentage of land to acquire. It is not considered appropriate for the provisions of the LVC to be pre-empting proper planning processes or current IPART work on efficient use of land. Where a maximum rate is mandated, Councils may opt out of an LVC.
- As raised earlier in this submission, concern is raised with the application of the LVI and in respect to the proposed LVC- its impact on the sale and development of land. DPIE has not provided any evidence in the reform exhibition material to demonstrate that the application of LVI will provide Council, over the lifespan of a development, the funds needed to be able to acquire land, at market rate.
- A simple comparison of the LVI and market rate has been undertaken, using the recently rezoned industrial precinct of Mamre Road as an example. Using LVI, from the commencement of the rezoning in 2020, Council would not be collecting sufficient funds from the LVC to acquire land in the precinct.

	Area	VG LVI 19	VG LVI 20	VG sqm	CP sqm 2020	Diff.	VG LVI 21	VG sqm	CP sqm 2021	Diff
Aldington Rd KEMPS CREEK	10.16	\$ 3,700,000	\$ 20,000,000	196.85	\$400	\$203.15	\$ 20,000,000	\$ 196.85	\$600	\$403.15

Aldington Rd KEMPS CREEK	10.15	\$ 3,940,000	\$ 20,000,000	\$ 197.04	\$400	\$202.96	\$ 20,000,000	\$ 197.04	\$600	\$402.96
Aldington Rd KEMPS CREEK	10.12	\$ 4,590,000	\$ 19,000,000	\$ 187.75	\$400	\$212.25	\$ 19,000,000	\$ 187.75	\$600	\$412.25

- It is recommended that DPIE provide further evidence on the testing of LVC to demonstrate for different development contexts, particularly highly fragmented land, that over the lifespan of a project, the LVC will not leave Council with a shortfall for land acquisition.
- There is uncertainty whether the LVC applies to sites that are required for infrastructure delivery. DPIE should provide further explanation on the relationship between the LVC and acquisition processes. Concern is raised that payment of LVC on land to be acquired create a complex scenario, that requires specific guidance. Further guidance is also recommended where works in kind are proposed and how this may relate to the payment of contributions.
- Council has received feedback from the community that the process and implications of the LVC is difficult to understand and interpret.
- It is recommended that the existence of an LVC should be listed within 10.7 certificates.

**Recommendation: Defer, until the process is resolved, and Councils can be guaranteed that sufficient contributions to cover the cost of land can be collected.**

**S7.12 changes (Local Levy)**

*There is support for changes to s7.12 (local levy contributions), where they do not leave Councils any worse off and provide flexibility for complex planning situations. The proposed changes will negatively impact Councils approach to local contributions planning in the Aerotropolis.*

- Council currently has one s7.12 development contributions plan that applies a 1% levy to non-residential development across the city. As the plan is relatively new, we are unable to provide detailed data to refute or support the proposed levy rate for industrial or commercial uses. However, our limited data suggests that the retail rate appears low.
- Concern is raised by the proposed discounting of the levy for developments that do not increase floorspace. This form of development accounts for a proportion of income of the plan and will impact the ability of Council to deliver infrastructure. It is requested that DPIE provide further justification as to why discounting is proposed.
- Existing legislation does not specify land uses that a s7.12 plan may apply to. The proposed regulation amendments specify applicable land uses, and not all are listed. The 'missing' land uses as an example include

	<p>some tourist and visitor accommodation land uses or education establishments (private). Councils should be able to determine what land uses the plan will apply to.</p> <ul style="list-style-type: none"> <li>- The proposal to index the local levy to account for increases in costs is supported.</li> <li>- The proposed changes would make the implementation of s7.12 plans in greenfield or city centre contexts unviable. It does not provide Councils with the opportunity to seek flexibility in the rate of application, particularly for non-residential development, and this is not supported.</li> <li>- It is noted that the proposed changes do provide Councils with established infill areas an option of using s7.12 instead of s7.11. For Penrith LGA, the per dwelling rate is broadly consistent with existing s7.11 contributions for infill development.</li> <li>- The proposed changes to s7.12 add increased complexity to an existing relatively simple process. Historically the reduced complexity of preparing and administering an s7.12 plan came with a lower contribution rate, compared with an s7.11 Plan. The complexity of the proposed changes, such as the application of different cost categories and regions is likely to result in the creation of loopholes in payments. DPIE must consider ways to continue to retain the simplistic nature of s7.12 plans and ensure Councils can sufficiently recoup funds for the administration of the plan.</li> <li>- Significant concern is raised with the application of the proposed changes and the impact on Penrith and Liverpool Councils Draft Aerotropolis s7.12 Contributions Plan. Councils have been working closely with DPIE on the delivery of local infrastructure in the Aerotropolis, through an initial s7.12 Plan with a rate of 6.5%. The proposed changes, if applied to this draft plan, would require Councils to review the impacts of the regulation amendments and potentially restart the contribution planning process in the Aerotropolis, as there is a significant difference between the rate requested for the draft plan and the proposed standard 1% levy rate. We seek DPIE to consider transitional arrangements to enable Councils to finalise the draft plan.</li> </ul> <p><b><i>Recommendation: Defer proposed changes to non-residential development to ensure Councils will be no worse off. DPIE to assist Councils to ensure reforms will not impact contributions planning in the Aerotropolis.</i></b></p>
<p><b>Review of Contributions Plans</b></p>	<p><b><i>It is agreed that contributions plans require regular review to ensure the plans are delivering the right infrastructure for the community at the correct cost. With the current shortage of qualified infrastructure contributions professionals, the review of plans every four years will be challenging to achieve.</i></b></p>

	<ul style="list-style-type: none"> <li>- Contributions plans require regular review to ensure they are delivering the right infrastructure for the community at the correct cost. With the current shortage of qualified infrastructure contributions professionals, the review of plans every four years will be challenging to achieve.</li> <li>- It is recommended that DPIE urgently review the impact on the availability of infrastructure contributions professionals in NSW and provide advocacy to assist Councils to resource this area into the future.</li> </ul> <p><b>Recommendation: Support in principle, however, DPIE is requested to assist regarding the shortage of qualified contributions professionals.</b></p>
<b>Practice Note Review</b>	<ul style="list-style-type: none"> <li>- There is considered a contradictory policy regarding the identification of community facilities infrastructure that Council may deliver. While we agree with this premise, the essential works list excludes Councils from delivering this in IPART reviewed plans, with potential further limitations on all 7.11 plans after 2024.</li> </ul> <p><b>Recommendation: Support with changes.</b></p>
<b>Borrowing and Pooling of funds to forward fund infrastructure.</b>	<ul style="list-style-type: none"> <li>- The proposed amendments to the regulations are considered formalising a practice that Council already undertakes in respect to borrowing and pools of funds and the indexation of the cost of interest.</li> <li>- We seek DPIE to provide justification on the proposed method of indexation for the interest on the loan or borrowing. One of Council's s7.11 plans are loan funded, and the interest from the loan is recouped through indexation based on the 90-day bank bill swap rate. This method is considered suitable to Council.</li> </ul> <p><b>Recommendation: Support.</b></p>
<b>Planning Certificate changes</b>	<ul style="list-style-type: none"> <li>- The inclusion of this information on planning certificates is supported, to ensure the community is aware of any regional infrastructure contributions that are applicable to a property.</li> </ul> <p><b>Recommendation: Support.</b></p>
<b>Register for Affordable Housing</b>	<ul style="list-style-type: none"> <li>- Extensive reporting is currently required for infrastructure contributions and support the reporting extension to affordable housing.</li> </ul> <p><b>Recommendation: Support.</b></p>

**LAND USE PLANNING (PROPOSED MINISTERIAL DIRECTIONS AND PRACTICE NOTES)**

**Planning Proposal Ministerial Direction**

For planning proposals, Councils need to consider if a CP is needed to deliver development (i.e. increase demand for services and amenities)

*Support for the early consideration of infrastructure for developments that generate the need for new, updated or augmented infrastructure, however, the proposed direction requires trade-offs with planning proposal processing timeframes.*

- Please refer to our previous comments regarding the proposed 271A clause and its application to state led rezoning. This direction should also apply to rezonings prepared by DPIE.
- The proposed process of preparing contributions plans early will impact the planning proposal process and will require more detailed information to be provided by applicants at lodgement and to be assessed prior to the gateway.
- As stated earlier, this process is highly dependent on the proposed reforms on exhibition for rezoning processes and consideration of this matter needs to run parallel to this reform.

**Recommendation: Support in principle.**

**Dual and shared use of open space and public facilities Ministerial Direction**

Planning Proposal must demonstrate efficient use of land uses for public open space, drainage purposes or public facilities

*The efficient use of land for infrastructure purposes is supported, but the determination of what efficient looks like must consider asset management, lifecycle costs and quality of infrastructure.*

- The topic of efficient use of infrastructure land is currently under investigation and consideration under three different reviews/reforms- The subject reforms, IPART’s review on essential works list, nexus and efficient infrastructure design and the Draft Design and Place SEPP.
- Councils submission to IPART on this matter stated:
  - o *Council supports the need to ensure that efficient design and delivery is established and demonstrated in a contributions plan, and the overarching principles as set out in the draft report are generally considered suitable.*
  - o *However, concern is raised that the process to establish efficient design and delivery in line with the report appears to be a lengthy and arduous process. To assist Councils to undertake this process, it is recommended that IPART consider developing a process map or guideline for this process.*
  - o *The Department of Planning, Industry & Environment (DPIE) Infrastructure Contributions reforms seek for Councils to prepare development contributions plans early in the process and exhibit concurrently post gateway. It is important for Council, developers and the community that the process of establishing*

	<p><i>efficient design and delivery can be completed in a streamlined manner, and that the expectations of the needs and requirements of the process are clearly established.</i></p> <ul style="list-style-type: none"> <li>○ <i>In a situation where Contributions Plans will be reviewed by exception by IPART as proposed by DPIE in the proposed reforms, the process of establishing efficient design and delivery should be clear and precise, in order to limit review requests.</i></li> <li>○ <i>IPART should provide further scope in response to reconciling base level embellishment and community expectations. Councils are best placed to understand the base level embellishment needed to meet community needs, however, this may not align with developer expectations or the draft benchmarks.</i></li> <li>○ <i>Additionally, IPART should provide more guidance through this process of reconciling lower ongoing maintenance costs, and developers seeking low upfront costs. This is a potential point of conflict that IPART could set a clear process of review.</i></li> </ul> <ul style="list-style-type: none"> <li>- The considerations for efficient design are complex, which IPART broadly recognised in its provision of principles for Council to consider. DPIE must assist Councils to undertake this assessment by:           <ul style="list-style-type: none"> <li>○ Providing a practice note, process map or guide for Councils and other stakeholders to clearly understand this process.</li> <li>○ To acknowledge the impact of this consideration in the timeframes provided for planning proposals.</li> </ul> </li> <li>- This direction focuses on land for certain purposes but does not consider broader efficient design elements. It appears that this direction is to implement the draft Design and Place SEPP provisions of co-locating public open space and drainage uses. If that is the case, the direction is considered unnecessary.</li> <li>- Council is currently considering the impacts of the draft Design and Place SEPP. DPIE should not proceed with this direction until submissions are received and reviewed for the draft Design and Place SEPP.</li> </ul> <p><b><i>Recommendation: Defer for further review. A ministerial direction on this matter is unnecessary and should be considered in the context other concurrent reviews.</i></b></p>
<b>Contributions Plans and Planning Proposals</b>	<p><b><i>The benchmark process inadequately describes the processes Councils and developers undergo to prepare Contributions Plan and Planning Proposals and requires significant revision.</i></b></p>

A benchmark process on how to prepare a CP with a planning proposal

- DPIE has recently released a discussion paper regarding the rezoning process. This submission does not reflect the proposed new processes and Councils should be afforded the opportunity to further consider the proposed reforms in their submissions.
- The draft procedure does not acknowledge the extent of pre-lodgement meetings and collaborative work between Councils and applicants that take place for planning proposals. This often involves numerous meetings, often with state agencies included.
- The focus of the procedure is on the preparation of the contributions plans, and whilst the actual plan is important, the most critical element of this process is the infrastructure schedule. The schedule is what specifies infrastructure is necessary to support the planning proposal, the size and location of this infrastructure and its cost. The process needs to be clarified to ensure that this is the focus for initial submission, not necessarily the plan.
- Noting that a contributions plan template, according to the exhibition documentation, is going to be prepared by DPIE, the infrastructure schedule should be the element that is focused on, as the preparation of the plan itself should be relatively straight forward.
- In relation to the process, Council will not commence the preparation of a contributions plan for a private planning proposal, until such time a planning proposal has been lodged. The advice is contrary to this practice and should be amended.
- The procedure should be clarified to ensure that supporting studies are outcomes focused. The paper focuses too much on the actual plan, instead of the strategies underpinning it.
- The requirement to lodge the contributions plan with the Planning Proposal is predicated on the fact that the supporting studies are suitable and are supported by Council. Months of work usually go into reviewing and updating these strategies. In order to have a contributions plan to endorse for gateway, all supporting studies need to be completed prior to gateway. This does not currently occur and again will impact timeframes and will require an amendment to the gateway process.
- By seeking a Council resolution for the contributions plan to send to the gateway, there is concern that the detail required to be prepared for gateway will be significant and will inflate these timeframes. Councils will not be prepared to provide 'in principle' endorse infrastructure items that have not been fully assessed and determined

- The process does not give weight to the usually significant discussion with state government during this process. Often infrastructure is identified in conjunction with state government agencies and collaborative work is required to deliver this infrastructure.

**Recommendation: Defer until rezoning reforms have been finalised.**

### REGIONAL CONTRIBUTIONS PACKAGE

*The application of state infrastructure contributions for growth across Greater Sydney is broadly supported, but only where nexus exists, where the accountability of the program resembles the same obligations of local infrastructure contributions, that the infrastructure supports growth and the community pays for infrastructure within their local area.*

As indicated earlier in this submission:

- Council raises concern with the application of the proposed RIC to infill development within the Penrith LGA. The proposed RIC will apply further infrastructure contributions to infill developments of between \$15,000-\$17,000 per dwelling and additional costs for commercial, business and industrial development. These costs have never previously been applicable or accounted for.
- Council is concerned about the impact of the RIC on development feasibility and housing affordability. While it is acknowledged that transitional arrangements are proposed, we remain concerned about the capacity for the market to pay both the RIC and Local Contributions, plus other charges and the impact this may have on the revitalisation of key centres and the delivery of sensitive infill development. The feasibility testing provided in the package contained examples of development in Penrith LGA and demonstrated the vulnerability of emerging centres such as St Marys and low value markets (i.e. Western Sydney) from the application of the RIC and other charges. This work does not provide certainty that there is not going to be an impact on established areas, particularly commercial or mixed-use locations.
- Council does not support the application of the RIC to 'knock-down rebuild' development. Council does not believe a nexus argument can be established, as generally no additional development is being created. At face value, it appears that the application of the RIC in this instance is double dipping.

Further to the above:

- More rigour is required on the proposed infrastructure works that are to be delivered by the RIC. The State Government should be held to the same high standards of plan making, nexus and reporting required of Councils for local contributions. RIC list of work should be easily accessed by the community, should have clear timeframes for delivery and identified prioritisation. RIC work schedules should also be reviewed regularly.
- DPIE must provide more certainty for the community in relation to where contributions collected from a specific area will be spent. This is required of Councils for local contributions and the same standards should be applied in this instance. Council supports money generated in the Penrith LGA, being spent for infrastructure in Penrith LGA.
- DPIE must commit to engaging directly with local government on identifying suitable RIC infrastructure, through Councils strategic planning processes and planning proposals. There needs to be a direct mechanism to be able to identify these items.
- Priority should be given to works that unlock development.
- DPIE should clarify if community facilities will be considered for RIC funding. Noting that the draft Aerotropolis SIC provides funding for certain community facilities, clarification is sought on this matter. Council supports the RIC providing regional level community facilities, however, concern is raised if there is inequity between what local contributions and RIC's can deliver.
- The application of the strategic biodiversity component of the RIC will apply to Greater Penrith to Eastern Creek (GPEC) and the Aerotropolis is noted. Council in its submission to the Cumberland Plain Conservation Plan (CPCP) *acknowledges the benefits of strategic conservation planning given the large-scale development proposed within the Penrith local government area (LGA) over the next 36 years*. However, Council raised a number of concerns with the draft CPCP including:
  - *the impacts of the proposed E2 zones on property owners (including their application to entire properties without compensation or acquisition and the potential impacts on existing land uses);*
  - *the lack of ground-truthing;*
  - *the process for monitoring the delivery of the CPCP (including ensuring offsets are provided commensurate with development); and*
  - *the relationship between biodiversity controls in the proposed State Environmental Planning Policy (SEPP) and Penrith Local Environmental Plan (LEP) 2010.*

	<ul style="list-style-type: none"> <li>- Concerns are raised with the demonstrable nexus of the application of a \$5,000 charge per dwelling and charges to commercial and industrial land uses, particularly within the GPEC area, where we consider a limited number of development areas would be subject to offset requirements. We seek DPIE to provide further justification on this component and how nexus is achieved in its application.</li> </ul> <p><b>Recommendation: Defer the introduction of RIC, to resolve outstanding matters, application to knock down rebuilds not supported</b> - <i>The application of state infrastructure contributions for growth across Greater Sydney is broadly supported, but only where nexus exists, where the accountability of the program resembles the same obligations of local infrastructure contributions, that the infrastructure supports growth and the community pays for infrastructure within their local area.</i></p>
<b>MISCELLANEOUS MATTERS</b>	
<b>Contributions Plan Template</b>	<ul style="list-style-type: none"> <li>- The exhibition material discussed the preparation of a contributions plan template. Council supports a standard contributions template. In 2020, Council invested resources in the preparation of a contributions template and would be happy to provide a copy of this template to DPIE on request.</li> </ul>
<b>Digital Tool</b>	<ul style="list-style-type: none"> <li>- The exhibition material acknowledged a proposed digital tool for contributions but did not provide further detail on the proposed tool. It is unclear whether the tool is intended for calculating state contributions and/or local contributions?</li> <li>- Council supports the implementation of tools that will assist the community in understanding contributions obligations easily. Council has recently completed tender processes to implement digital tools for development contributions. Given this recent investment of Council and the complexity of integrating contributions payments, we seek further advice from DPIE on how the tool would apply to local government, to ensure Councils processes and significant investment are not impacted.</li> </ul>