

City of Parramatta Council

22 March 2021 Item 18.1

SUBJECT: NOTICE OF MOTION: CARRIED

\$300+ Million at Risk from Council's Essential Community Infrastructure Program due to the NSW Government's New Infrastructure Contributions System

MOTION FROM Councillor Bradley

(a) **That** Council notes that:

i. Council decided at its meeting of 9 June 2020 at Item 18.1 in regard to the NSW Government's Infrastructure Contributions Review inter alia that,

"The proposals on value sharing are **strongly opposed** as they threatened to undermine Council's current policy framework for Planning Agreements, which adopt value sharing as an equitable, transparent and evidence based policy approach".

ii. At this same meeting Council supported its submission which expressed concern about the threat to its 50% share of value uplift outside the CBD and included this reference, "Council staff estimate that the proposed draft Community Infrastructure provisions in the Parramatta CBD Planning Proposal could potentially facilitate approximately \$300 million worth of community infrastructure in the CBD. This would make a significant contribution to Council's approximate \$1.5 billion works program for new community infrastructure in the Parramatta CBD and would be at risk if the proposed system is brought into effect."

iii. Despite the Department of Planning noting that "The clarification and position on value capture drew out the strongest comments and opposing positions from stakeholders. Many councils, peak bodies and community representatives objected to the changes" (Ref.1), it has recently announced that "the exhibited position on value capture is maintained, as it is the Government's policy position that planning agreements (Ref.1) cannot be used for the primary purpose of value capture" and that "they should not be used to capture land value uplift resulting from rezoning or variations to planning controls." (Ref.2)

(b) **That** Council prepare a report to be brought back to Council at a May meeting:

i. To advise an estimate of the public value share funds at risk from planning proposal agreements outside the CBD;

ii. To give an update on the review of Council's development contributions plan framework to account for the loss of land value uplift sharing; and

iii. To identify funding options including the possibility of government grants, to provide the community infrastructure needed for the planned residential growth.

(c) **Further, that** Council contact the NSW Member for Parramatta The Hon Dr Geoff Lee and the Minister for Planning and Public Spaces The Hon Rob Stokes urging them to work with Council to find a mechanism to address this \$300+ million cut in community infrastructure funding necessary for the rapid inflow of additional residents to Parramatta.

BACKGROUND

1. At the Council meeting of 9 June 2020, Council officers reported at Item 18.1 as follows:

(a) The position on value sharing outlined in the Practice Note [now approved] 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 the CBD). This has significant risks for Council and the community, including:

i. Significant impacts for Council's financial position: With the loss of its value sharing policy as a basis for voluntary planning agreements (VPAs), Council would be at a severe disadvantage in current and immediate future VPA negotiations. This would give rise to an immediate need to identify funds to provide infrastructure for the community from other sources. Council staff estimate that the proposed draft Community Infrastructure provisions in the Parramatta CBD Planning Proposal could potentially facilitate approximately \$300 million worth of community infrastructure in the CBD. This would make a significant contribution to Council's approximate \$1.5 billion works program for new community infrastructure in the Parramatta CBD and would be at risk if the proposed system is brought into effect.

ii. 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 require immediate re-prioritisation of other strategic planning matters, as well as giving rise to significant delay to the Parramatta CBD Planning Proposal.

iii. Less community infrastructure being delivered: During the time that would elapse while Council undertakes a policy review and associated fund- sourcing investigations, planning for the continuing growth of the LGA would need to be addressed. The likely outcome would be that development would outstrip the delivery of supporting infrastructure - particularly in high growth precincts – leading to poorly planned outcomes to the detriment of the local community.

(b) On this basis, Council officers recommend that Council strongly objects to the proposals on the basis that they would undermine Council's current approach to planning agreements. Council officers are currently holding discussions with DPIE with the aim of ensuring Council's proposed measures in the Parramatta CBD Planning Proposal, that were developed in collaboration with DPIE, can continue to be used to ensure delivery of the infrastructure needed as the City continues to rapidly grow.

REFERENCES

1. Infrastructure contributions system improvements – Submissions report • Especially 3.2 Issues raised in submissions and 3.3 Response
https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/Policy-and-legislation/Infrastructure/submissions-report-infrastructure-contributions-system-improvements-202102.pdf?_hsmi=110743646&_hsenc=p2ANqtz-8N3Kx_gEsDyLL51Viz9siMOJsQdtnWPxqi-nuUEDcOKPNB4sbVyrn3GHVVzp38pX0wb-tt0NabmwM0IzGdCxhi1ij3tg

2. Planning Agreements Practice Note – February 2021 • Especially 2.3 Value capture
https://www.planning.nsw.gov.au/-/media/Files/DPE/Practice-notes/practice-note-planning-agreements-2021-02.pdf?_hsmi=110743646&_hsenc=p2ANqtz-_7vwevWL2iKUvEcSbRgYX2Zxy_mTpPQrtubTJ4uYqMHZWXew6ZOw_OYeUD-LZvgiR4Rc7IKEQHtde3hqgCluzDxCh--g

Phil Bradley
Councillor Bradley

ACTING EXECUTIVE DIRECTOR CITY PLANNING & DESIGN RESPONSE CBD Infrastructure Funding Review

4. Following the report on 9 June 2020, Council received further advice from the Department of Planning Industry and Environment (DPIE) on 27 July 2020 which enabled Council to retain the clauses that would underpin a value sharing based infrastructure funding framework in the PCBD Planning Proposal (CBD PP) that was placed on public exhibition in the last quarter of 2020.

5. The Minister for Planning released a Ministerial Direction on 12 February 2021 which limits Council's policy approach when negotiating VPAs. The Ministerial Direction states that VPAs "should not be used to capture land value uplift resulting from rezoning or variations to planning controls". Advice from DPIE following the release of this Direction is that the draft CBD PP will need to be amended to remove the clauses related to value capture that facilitate Council's proposed infrastructure funding framework.

6. In response to this, Council Officers have met with DPIE to seek feedback on alternative options for funding community infrastructure which are limited to:

i. Introducing a new Section 7.11 Contributions Plan to apply to development in the CBD (this would require preparation and public exhibition before adoption); or

ii. Increasing the existing Section 7.12 development contribution flat rate which currently sits at 3% of the estimated cost of development (any increase to this rate would require Ministerial approval).

7. A preliminary analysis of the options for increasing development contributions in the CBD will be provided to Council together with the outcomes of the exhibition of the draft CBD PP which is currently programmed to be reported to Council in May 2021. Following that Council meeting, it is currently proposed to prepare a report to Council within 1-2 months on a proposed new alternate community infrastructure framework including a recommendation for a new Section 7.12 rate that Council could request the Minister to endorse. The intention would be to seek to amend the Section 7.12 contribution rate so that the \$300 million that might have been collected under the proposed new LEP clauses can instead be collected via this amended plan.

Outside CBD Infrastructure Funding Review

8. As indicated above the only available option for increasing a development contribution towards infrastructure outside the Planning Agreement Framework is via the Section 7.11/7.12 Developer Contributions Framework.

9. Council resolved on 30 November 2020 to exhibit a Section 7.11 Contributions Plan that will apply outside the CBD. At the time of finalising this response it was proposed to commence the public exhibition of the draft Contributions Plan for 30 days during this month.

10. In preparing the draft Contributions Plan, Council Officers analysed both Section 7.11 (tied to increases in residents, workers and visitors) and Section 7.12 (flat % rate based on estimated cost of development)

contributions structures in order to ascertain which would maximise Council's ability to fund new infrastructure, and as a result the draft Section 7.11 Plan was recommended to Council.

Overview

11. The reviews of Council's development contributions plans already underway constitute a review of Council's Contributions Plan framework. Both reviews seek to maximise community infrastructure funding, hence there is no need for a further review of this policy framework.

12. This contribution planning work is linked to the Community Infrastructure Strategy (CIS) adopted by Council. The CIS sets out a needs-based approach derived from an understanding of population growth driving the need for community infrastructure including open space, traffic and transport as well as pedestrian safety. The CIS outlines the City of Parramatta's long-term direction for community infrastructure provision. It focuses on community infrastructure over which Council has primary responsibility, plays a role in delivering, or seeks to advocate for on behalf of the community. The CIS is updated at least every 4 years to align with Council's Community Strategic Plan and Local Strategic Planning Statement. This ensures that infrastructure delivery is coordinated with Council's resource capacity to undertake the scheduled asset work as per Council's Delivery Program.

13. Council's Planning Agreement Policy is now inconsistent with the February 2021 Ministerial Direction and there is a need to amend that policy. In this context, a key recommendation of a recently released Productivity Commission report about "Improving the Contributions System in NSW" is that Government Policy should be:- "limiting the use of state and local planning agreements to direct delivery of works and supporting infrastructure for 'out-of-sequence' developments".

The Commission report wording suggests that Planning Agreements should be negotiated on the basis of a detailed analysis of the impact of the development on local infrastructure, rather than being based on a policy that requires a fixed contribution. Officers from DPIE have indicated that this recommendation will continue to guide policy on Planning Agreements moving forward.

14. It will be necessary for Council's Planning Agreement Policy to be amended to reflect the Ministerial Direction and the State Government position. The amendment of the Policy is scheduled to occur as staff discussions with DPIE are progressed.

15. The Ministerial Direction also contains savings provisions which indicate that the new policy does not apply to Agreements already in place and those exhibited before July 2021.

FINANCIAL AND RESOURCE IMPLICATIONS

16. The reallocation of staff resources to carry out an urgent review of this policy and an analysis of the funding implications would impact on current staff work on delivering contributions plans and the CBD planning proposal that is already well underway. This reallocation would potentially result in the following projects being delayed:-

- i. Site Specific Planning Proposals across various sites;
- ii. Site Specific DCPs across various sites;
- iii. Harmonisation Planning Proposal – outcomes of exhibition being reported to Council; and
- iv. Telopea Draft DCP project.

17. Further, it should be noted that any analysis of the financial impact of the change in Planning Agreement policy on Council's ability to negotiate future Agreements would need to be based on tentative high level assumptions on:

- i. where future planning proposals will be lodged;
- ii. how much future growth may be proposed;
- iii. and the values uplift associated.

18. Hence the analysis could only be provided as broad indicative figures with significant disclaimers as to their potential accuracy.

19. As indicated in the June 2020 report referred to above, the current estimates of the financial impact of the changes on Council are:-

- Parramatta CBD: staff estimate that the currently proposed draft Community Infrastructure provisions in the Parramatta CBD Planning Proposal could potentially facilitate approximately \$300 million worth of community infrastructure for the Parramatta CBD. This funding would be placed at risk and Council would need to identify alternative funding sources.
- Outside Parramatta CBD: Council's ability to secure infrastructure funding outside the CBD would be significantly impacted. Whilst Council would continue to negotiate VPAs for Planning Proposals this could not be funded on the current policy position of 50% value sharing. The scale of this impact would depend on the new policy position that Council develops to levy for infrastructure funds and forms a new basis for undertaking VPA negotiations.

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