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IMPROVING THE INFRASTRUCTURE CONTRIBUTIONS SYSTEM

Fairfield City Council Submission

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Improving the infrastructure contributions system

Fairfield City Council Submission to State Government

Prepared for

Fairfield City Council

By

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1 Introduction

Councils collect contributions from development to fund local public infrastructure that is required as a direct or indirect result of development.

Under the Environmental Planning and Assessment Act 1979,

- Section 7.11 permits the collection of contributions where there is direct link between the development and the community infrastructure required
- Section 7.121 permits the collection of contributions based on a percentage of the cost of development (with thresholds applying) to fund community infrastructure within the local government area.

The development contribution system. in NSW has funded much needed community infrastructure, and periodic reviews of the system are prudent for the development industry, local government and the community.

Fairfield City Council (FCC) welcomes the opportunity to provide input into the Department of Planning, Industry and Environment's (DPIE's) draft documents which seek to improve the operation of the NSW infrastructure contributions system.

GLN Planning, an urban planning consultancy which specialises in providing advice to councils and developers on infrastructure contributions, was commissioned by FCC to review the draft documents and assist Council in preparing its submission.

The documents, listed below, and Council's views on DPIE's proposals, are discussed in turn in this submission.

- Improving the review of s7.11 local infrastructure contributions plans discussion paper
- Criteria to Request a Higher Section 7.12 Percentage Discussion Paper
- Draft Planning Agreements Practice Note and Ministerial direction
- Draft Special Infrastructure Contributions (SIC) Guidelines
- Proposed amendments to the EP&A Regulation – policy paper and draft regulation

2 Summary of recommendations

Improving the Review of s7.11 Local Infrastructure Contributions Plans Discussion Paper

1. Council supports changes to the current $20,000 and $30,000 per residential lot thresholds because their real value has continuously fallen for the past 10 years. Council also supports indexing the threshold into the future.

2. FCC has no particular preference for any of the threshold options presented but sees merit in a threshold based on the works contribution rate only. Research on IPART reviewed plans for Western Sydney precincts suggest that a State-wide $30,000 per lot works-only contribution rate would be an appropriate threshold.

Criteria to Request a Higher Section 7.12 Percentage Discussion Paper

3. FCC supports the councils being allowed to seek approval for higher s7.12 levies, but they should not need to go through a formal and likely resource-intensive application process where the areas to be subject to the higher levy are designated strategic centres or economic corridors in a regional or district strategic plan. The need for significant investment in infrastructure to make these locations great places has already been established through the strategic planning process. FCC recommends that the EP&A Regulation should simply be changed to authorise a maximum levy of 3% in these areas.

4. There should be no arbitrary maximum percentage rate set for applications to increase the s7.12 rate from the current 1% maximum levy. Councils should be allowed to justify the levy rate that is needed to fund the minimum infrastructure required to meet the demands of growth, by responding to the following criteria:

    a. Is the area targeted for significant / concentrated development growth in a strategic plan?

    b. What are the local infrastructure needs to meet the expected development, and how are those needs to be met as efficiently as possible? (e.g. making the most use of existing land, partnering arrangements)

    c. Are all development types to be subject to the same levy rate? (e.g. will employment be levied a lower rate than residential to encourage job-generating development)?

    d. What is the funding strategy to meet the costs of the required infrastructure, and the role of a higher s7.12 in that funding strategy? (i.e. a balanced funding mix - including, for example, local area special rates and council land rationalisation and redevelopment – should be tested to show the need for the higher levy rate)

Draft Planning Agreements Practice Note and Ministerial direction

5. FCC supports the thrust and much of the content of the draft planning agreement practice note as an important tool in engendering faith and trust in the planning system. Council particularly supports the practice note requirement that agreements relate to and actively support the local council's strategic land use and infrastructure planning to meet the needs of future population, with the provision of public benefits relating in part to demand generated by the development.

6. Council supports planning agreements continuing to be used as a means for the public to share in any land value uplift created by rezoning decisions until such time the Government (and this could happen through the Productivity Commission review) comes up with a better mechanism that ensures that the unearned windfalls that come with planning decisions and infrastructure investments are fairly shared between the landowner and the wider community.

7. The draft practice note, or some other advice document containing the same content, should apply to all planning authorities that negotiate planning agreements, and not just councils.

Draft Special Infrastructure Contributions (SIC) Guidelines

8. Council supports the initiatives for greater accountability and transparency in the preparation and implementation of SICs, but suggests the Government go further than indicated in the draft guidelines by:

    a. showing the indicative timeframe for the preparation and finalisation of a SIC

    b. announcing a timeline for removing 'satisfactory arrangements' provisions in LEPs and other EPIs, and replacing them with Special Contribution Areas with SIC determinations

    c. SICs being subject to the same transparency and accountability requirements as local contributions through amendment of the EP&A Regulation.

Proposed changes to the Environmental Planning and Assessment Regulation 2000

9. Council recognises the importance of the transparent administration of a contributions system in building stakeholder confidence that local infrastructure is provided to acceptable standards and in a reasonable time. Council therefore supports the proposed changes to the EP&A Regulation requiring greater reporting, but with the proviso that the changes do not lead to excessive administrative burden without funding support from Government, or from users of the system (e.g. through a higher administration charge in the contribution).

3 City of Fairfield context

The City of Fairfield is located 32 kilometres from Sydney's CBD covering an area of 102 square kilometres and comprises 27 suburbs.

Fairfield City Centre is the only strategic centre in the LGA as identified by the Western City District Plan (2018). It plays an important role in providing employment, retail, medical and other services for the area and will be the focus of public transport investments that seek to deliver the 30 minute city objective. In 2016, there were 15,756 local businesses in Fairfield City generating 73,989 local jobs, with manufacturing as the largest employer. By 2036, a baseline employment target of 6,000 jobs and a higher target of 8,000 jobs has been set.

The Western District Plan (2018) highlights that the number of migrants in Fairfield City has grown significantly between 2015 and 2018 with more than 9,000 refugees – about 50 per cent of NSW arrivals – settling in the community. The new population with specialised needs corresponds to an increase in the need for infrastructure and services including transport, schools, health and community facilities, and recreation. Many are settling in areas of existing density where, despite significant investment by Council in recent years, deficiencies in community infrastructure exist for current populations including open space.

Fairfield's Local Strategic Planning Statement (**LSPS**) - Shaping a Diverse City (2020) - provides the strategy for the Fairfield community's economic, social and environmental land use needs over the next 20 years. It is anticipated that demand for additional open space, open space embellishment, new and embellished community facilities and stormwater detention basins to accommodate development will occur as the intensification of the use of land occurs. An extra 16,000 dwellings are expected to be accommodated in the City, predominantly in its eastern half, by 2036.

The Western City District Plan sets out the planning priorities for the district to 2036. These planning priorities will need to be addressed in the preparation of the new contributions plans.

The key priorities in the Western District Plan, which relate to development contributions are:

- Planning Priority W1 – Planning for a city supported by infrastructure.
- Planning Priority W3 – Providing services and social infrastructure to meeting people's changing needs.

The Greater Sydney Commission has identified joint and shared use of spaces as a mechanism to delivering social infrastructure by increasing access to open space and community facilities. The District Plan sets out a housing target of 3,050 dwellings for Fairfield City between 2016 - 2021. To address housing supply, strategies to be developed by councils include the coordination of the planning and delivery of local and state infrastructure.

Fairfield City Council has investigated opportunities for new homes close to transport and services and has also been contributing to the missing middle with the emergence of duplex and triplex developments. The residential up zoning of established precincts in Fairfield, Fairfield Heights, Fairfield East and Villawood, as well as the recent increase in shop top housing in the Fairfield and Villawood Town centres, point to the need for significant community infrastructure to address key liveability priorities within the Western District Plan and Council's LSPS. The established areas containing varying degrees of deficiency in open space provision, necessitating consideration of strategic rezoning couple with Council's capacity to carry a financial burden of significant land

acquisition. Development Contribution cash flow from 2009 to 2019 indicate that the rate of contribution collection falls significantly short of liabilities should community infrastructure need to be provide din the short term, particularly in relation to land acquisition.

The major recent contributor to the City's housing stock has been in the form of secondary dwellings (granny flats), with approximately 3,500 built between 2008 and 2018. These are permitted under State Government planning rules for affordable housing. The consequences of State Government policy can lead to unanticipated consequences for local government in relation to the provision of community infrastructure and the rate at which it needs to be provided.

The District Plan also identifies that the Western City has far less tree canopy cover and is generally more vulnerable to heatwaves and high temperatures. To facilitate change, both the District and metropolitan plan (*A Metropolis of Three Cities*) include actions to increase urban tree canopy and to investigate opportunities to provide new open space so that all residential areas are within 400m of open space and all high density residential areas are within 200m of open space. The Government Architect's Office has also developed an open space toolkit for councils to use for open space planning.

Based on the above, Fairfield City Council is likely in the future to:

- Prepare s7.11 contributions plans to meet the needs of higher density residential development in targeted growth locations - Council is therefore supportive of moves to increase the residential s7.11 threshold.

- Consider the use of s7.12 contributions plans as an efficient means of levying dispersed development throughout the City that generates demands for local infrastructure – Council is therefore supportive of DPIE establishing clear criteria for seeking approval of levy rates greater than 1%.

- Negotiate planning agreements with developers of major projects that occur from time to time in the City – Council is therefore supportive of DPIE providing appropriate guidance on the negotiation, transparency and accountability surrounding these agreements.

4 Exhibition documents

4.1 Improving the Review of s7.11 Local Infrastructure Contributions Plans Discussion Paper

4.1.1 Updating the threshold

Any change to the s7.11 residential development IPART referral threshold can only ever be an interim measure until the Productivity Commission (**PC**) review recommends a revised system. To the extent that it serves an interim function, increasing the thresholds by an appropriate amount is worthwhile.

The major contributor to residential contributions exceeding the current threshold is inflated land costs, and it is particularly acute in Western Sydney. All but one of the contributions plans that IPART has reviewed since 2011 have related to development areas in the Sydney region. The Government could therefore consider the use of differential thresholds between Sydney and ex-Sydney to address this difference.

Differential thresholds would make the system more complex, so in order to deal with the huge differences in the price of land the Government could adopt a threshold that is 'land-blind'. That is, the threshold relates to the works costs only in a plan.

In the event that the Government was interested in adopting a works-only contribution threshold Table 1 and Figure 1 show the average land contribution rate per lot for IPART-reviewed plans in Western Sydney.

The data show that a works-only contribution rate threshold of $30,000 per lot may be an appropriate single State-wide threshold for referral of contributions plans to IPART.

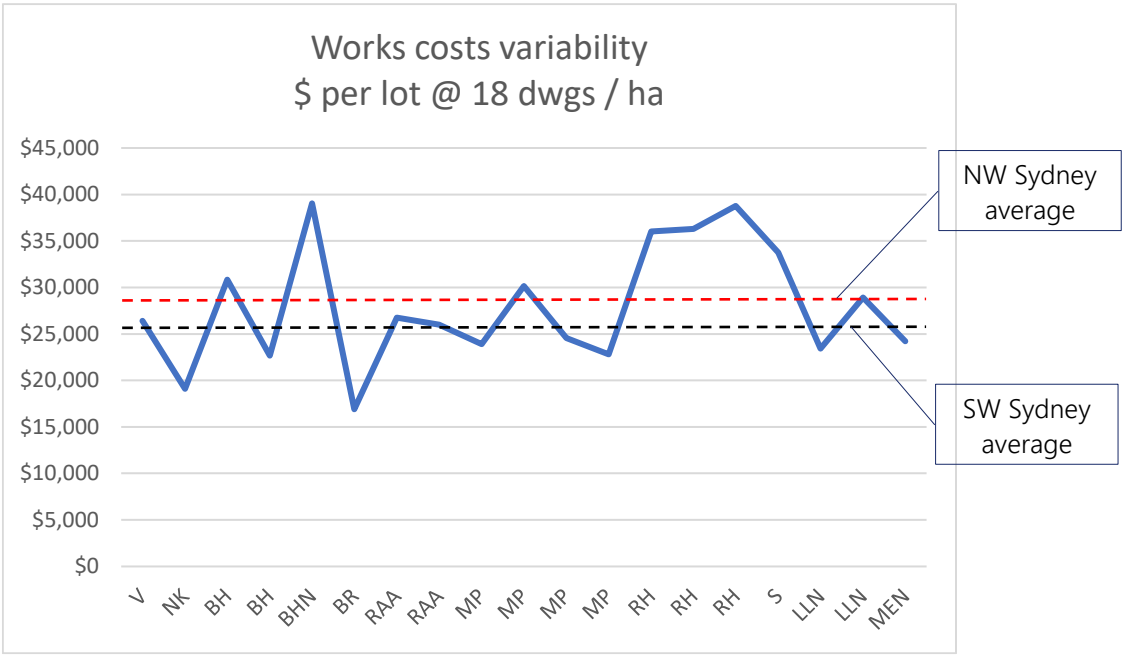
The use of works contribution rates would only be for threshold purposes. It would not prevent IPART and DPIE examining the reasonableness of the quantum of land in a contributions plan. Provided the land values have been prepared and certified by a suitably experienced Registered Land Valuer there should be no need to review unit rates for land.

The removal of land costs from the threshold also has the advantage of the threshold being relevant across NSW.

Table 1 Works contribution rate per lot for IPART-reviewed plans in western Sydney

	Average lot size 360m^2 Average lot density 18 dwgs/ha	Average lot size 280m^2 Average lot density 23 dwgs/ha
IPART-reviewed NW growth areas	$28,372	$26,002
IPART-reviewed SW growth areas	$25,521	$23,972
Average all IPART reviewed plans	$27,922	$25,682

Source: Reviews by IPART of s7.11 plans for 12 development areas in western Sydney



Source: Reviews by IPART of s7.11 plans for 12 development areas in western Sydney

Figure 1 Works contribution rates per dwelling – IPART reviewed plans

4.1.2 Indexation of threshold

Annual indexation of thresholds is supported, and CPI should be an adequate measure while awaiting the outcomes of the PC review.

4.1.3 Recommendations

1. Council supports changes to the current $20,000 and $30,000 per residential lot thresholds because their real value has continuously fallen for the past 10 years. Council also supports indexing the threshold into the future.

2. FCC has no particular preference for any of the threshold options presented but does see merit in a threshold based on the works contribution rate only. Research on IPART reviewed plans for Western Sydney precincts suggest that a State-wide $30,000 per lot works-only contribution rate would be an appropriate threshold.

4.2 Criteria to Request a Higher Section 7.12 Percentage Discussion Paper

4.2.1 LSPS should also be taken into account

Section 3.1 & criteria C1.1 Strategic Plans should include the relevant Local Strategic Planning Statement, as s7.12 is a mechanism to deliver local infrastructure and many of the LSPSs specifically discuss local infrastructure needs.

4.2.2 Why is an increased s7.12 levy explicitly linked to employment growth?

Sections 3.2 and 3.3 are inconsistent. Section 3.2 says increase in employment is required whereas 3.3 says employment and population.

Residents need new infrastructure as well. If a centre has large scale residential renewal, these new residents need access to quality infrastructure just as much as new workers would – therefore the focus solely on employment makes little sense.

Using the existing centres with higher rate levies as a precedent for future policy is not a sound basis for the focus on employment. Most of the centres with higher levy rates were part of the Department's City Centres Program (2005) which envisaged large scale residential development with other uses generally confined to ground level. For example - centres with higher rates such as Liverpool, Wollongong, Newcastle, Burwood and Chatswood – the vast majority of development in these centres has been residential.

4.2.3 Impact / relevance of the policy is likely to be minimal

It is not clear why the maximum a council can seek is set at 3%.

The reality is that, particularly if s7.11 thresholds are increased as per the separate DPIE proposal, there will be little incentive for councils to seek higher rate levies in places where residential development is permitted. This is because there is almost always more revenue to be gained from implementing a s7.11 plan than a s7.12 plan (even if the s7.12 rate is 3%).

Using the current (outdated) s7.11 threshold of $20,000 per dwelling as an example, the s7.12 levy would need to be at least 5% (based on a $400,000 per apartment dwelling build) to compete with s7.11.

4.2.4 Comments on the criteria

Criterion C1.5 - The proposed 0.2% limit on administration cost is unlikely to be sufficient in covering legitimate set-up and ongoing management costs. Set-up activities are significant, for example:

- A report or statement demonstrating that the LEP & DCP will deliver the proposed employment targets over the proposed 25-year time frame.
- A report or statement detailing how each proposed works item creates some benefit to the proposed development over that timeframe, and yet does not meet the criteria for a S7.11 plan.
- A financial model that demonstrates that the proposed works cannot be delivered over 25 years with 1% levy but can be with a 2% levy. The scope of this modelling needs to be clarified.

Criterion C1.6 - This criterion is superfluous as the plan must address this already under clause 27 of the EP&A Regulation.

Criterion C1.7 - Why the need to justify non-use of s7.11 before a Council can use s7.12? There has been no case set out for this unnecessary and time-consuming step. Surely if the conditions set out

in Section 2.3 apply, the de facto case has been established. Efficiency is the very reason why a council would pursue a s7.12 versus a s7.11 path because of its simpler preparation.

Criterion C1.8 - Financial modelling implies a complex analysis of delivery over time and cash flow. FCC's view is that this criterion is excessive and unnecessary.

Criterion C1.9 - Requiring Ministerial approval of any change to a works program, would require the Minister to approve all revised Section 7.12 contributions plans in future. This is not practical or appropriate given the delays already experienced seeking ministerial advice of s7.11 contributions plans following IPART assessment.

Criteria C2.1 & 2.2 - Why is there further criteria to assess a request for 3% levy, as distinct from a 2% levy?

What is the relevance of inclusion of a certain level of 'district' level infrastructure, which is undefined?

Given that the Minister/Department already adjudicate on any request to exceed 1%, it's not clear why this (arbitrary) further criteria is contemplated.

What matters is that the cost of the infrastructure and its necessity to support the growth are reasonable – the decision about the levy quantum simply flows from that.

Why make the criteria complex? FCC supports the original intent of the fixed rate levy alternative – i.e. it was a useful tool for development contexts where nexus was difficult to accurately quantify.

It remains true that S7.11 is usually most suitable to a greenfield context (particularly with subdivision) while 7.12 is best suited to a renewal/infill scenario.

The distinction has nothing to do with the nature of infrastructure being contemplated - it has everything to do with the context within which the development is occurring. The discussion paper acknowledges this in section 2.3 so why it needs to contemplate arbitrary percentages in Criteria C1.4 is unclear and not justified in the discussion paper.

The following criteria are simpler, more relevant and more appropriate than the criteria included in the discussion paper:

- Is the area targeted for significant / concentrated development growth in a strategic plan?
- What are the local infrastructure needs to meet the expected development, and how are those needs to be met as efficiently as possible? (e.g. making the most use of existing land, partnering arrangements)
- Are all development types to be subject to the same levy rate? (e.g. will employment be levied a lower rate than residential to encourage job-generating development)?
- What is the funding strategy to meet the costs of the required infrastructure, and the role of a higher s7.12 in that funding strategy? (i.e. a balanced funding mix - including, for example, local area special rates and council land rationalisation and redevelopment – should be tested to show the need for the higher levy rate)

4.2.5 Responses to discussion paper questions

1. Should all the criteria be mandatory for a s7.12 plan to be considered for a higher percentage levy?

No

2. Are there any alternative criteria that should be considered?

FCC believes there are much more relevant criteria that should be applied to applications for higher rate levies, as previously indicated. Refer to recommendations below.

3. C1.2: Considering the different ways 'significant' employment growth can be measured, what would be the most effective?

Employment growth is not a primary consideration in assessing the merit of higher s7.12 levies

4. C1.9: Is this requirement necessary? Are there other mechanisms that would ensure ongoing monitoring and review?

The requirement is neither practical nor necessary. Why not just impose a sunset date on the plan if it is not reviewed within 5 years?

5. C2.1: 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?

The district infrastructure criteria is irrelevant to the decision on the merits of a higher levy. What matters is that the cost of the infrastructure and its necessity to support the growth are reasonable – the decision about the levy quantum simply flows from that.

6. C2.1: 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?

See answer to question 5.

4.2.6 Recommendations

3. FCC supports the councils being allowed to seek approval for higher s7.12 levies, but they should not need to go through a formal and likely resource-intensive application process where the areas to be subject to the higher levy are designated strategic centres or economic corridors in a regional or district strategic plan. The need for significant investment in infrastructure to make these locations great places has already been established through the strategic planning process. FCC recommends that the EP&A Regulation should simply be changed to authorise a maximum levy of 3% in these areas.

4. There should be no arbitrary maximum percentage rate set for applications to increase the s7.12 rate from the current 1% maximum levy. Councils should be allowed to justify the levy rate that is needed to fund to minimum infrastructure required to meet the demands of growth, by responding to the following criteria:

    a. Is the area targeted for significant / concentrated development growth in a strategic plan?

b. What are the local infrastructure needs to meet the expected development, and how are those needs to be met as efficiently as possible? (e.g. making the most use of existing land, partnering arrangements)

c. Are all development types to be subject to the same levy rate? (e.g. will employment be levied a lower rate than residential to encourage job-generating development)?

d. What is the funding strategy to meet the costs of the required infrastructure, and the role of a higher s7.12 in that funding strategy? (i.e. a balanced funding mix - including, for example, local area special rates and council land rationalisation and redevelopment – should be tested to show the need for the higher levy rate).

4.3 Draft Planning Agreements Practice Note and Ministerial direction

4.3.1 Practice Note should apply to all planning authorities

Planning agreements in this practice note only refers to local agreements with council. There is a need to include, or provide a separate practice note that applies to all planning authorities, so to ensure certainty, transparency and guidance in relation to State planning agreements.

4.3.2 Value capture and planning agreements

Maintaining probity around the use of planning agreements by planning authorities is a high priority for FCC in order to engender faith and trust in the planning system. It follows that the practice notes for their use should be focused around probity, transparency and accountability.

FCC therefore supports the thrust and much of the content of the draft planning agreement practice notes with an exception regarding how value capture is addressed.

The draft practice note states in section 2.1, that 'value capture should not be the primary purpose of a planning agreement, and in section 2.4, that 'planning agreements should not be used explicitly for value capture in connection with the making of planning decisions'.

Yet the draft practice note also states that planning agreements can be linked to 'planning incentives, density bonuses, planning trade-offs or the like'. These strategies often lead to value uplift (otherwise developers would not be interested in them). Where development can exceed the established planning controls and can do so without having an unacceptable amenity impacts, then incentives or density bonuses can provide a win-win situation for the developer – who is able to generate a greater surplus – and the community who can gain a net benefit from the development in terms of additional infrastructure and amenity.

It is a fact that planning decisions made in the public interest often generate an unearned windfall gain to the developer that has been granted by the public. Therefore, value uplift is conceptually community property and the community have a legitimate claim to benefits created by planning decisions. To this extent, value capture is not just a valuable funding mechanism, but a fundamental equity issue that places the public interest at the forefront of planning.

The draft Practice Note indicates the primary reason value capture is not supported is that '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'.

This concern can be easily addressed by planning agreement policies and procedures that separate the roles of personnel negotiating planning agreements and assessing the associated planning application. **For the more contentious agreements, assessment could be undertaken by a planning authority separate from the council.** Separation of responsibilities is discussed elsewhere in the draft practice note as a strategy to help address the perception of planning decisions being bought.

There is a legitimate role for planning agreements in value capture when the contributions are be directed towards a strategic growth infrastructure program that has been adopted by the Council. Concerns about the legitimacy of the infrastructure projects selected can be addressed through an independent review by DPIE, IPART or some other entity arm's length from the council.

4.3.3 Alternative mechanism for value capture could be considered

FCC acknowledges that other councils have instituted 'policy on the run' and sought value capture in planning proposals without having a clear purpose for the expenditure of the funds. This is a practice that Council outrightly does not support. It is important that consideration is given to the genesis of this problem. Poor practice has happened because there was no State government leadership on at least two counts:

- the Government let councils use planning agreements for value capture purposes in a policy vacuum in an environment when housing prices doubled or tripled in areas designated by the Government for urban renewal

- the Government maintained the section 94 / 7.11 residential cap well beyond the time it was needed (i.e. it was an emergency measure to get housing moving again after the GFC), severely constraining revenue for councils, some of which sought to seek the extra income needed through value capture agreements.

Despite Council's support of the use of planning agreements to capture some of any unearned windfall, there may be a better and more appropriate vehicle to capture value – i.e. at its source with the taxing of the benefiting land owner. 'Value uplift' is a concept relating to inflating land prices as a result of planning decisions. Uplift occurs irrespective of whether development occurs. In fact, values often increase prior to planning decisions because speculative forces are so strong in a city like Sydney with very limited developable land resources. To put it simply, the uplift is pocketed by the owner of the land, who may or may not be the developer negotiating a planning agreement.

The distinction is a very important because if the value uplift impost is communicated early in the land speculation phase then those offering to buy land (developers) from owners will factor that into their offer price. Thus the owner, if they choose to sell, do so knowing that they or the buyer will have to pay a value sharing contribution that would more appropriately be described as a 'betterment' levy or tax.

The sharing of value uplift should therefore operate when land is rezoned and be an obligation imposed on each benefiting owner that monetises the uplift through a land sale with the revenue hypothecated back into infrastructure investments. This would need the leadership and administration by the State Government.

Council supports planning agreements continuing to be used as a means for the public to share in any land value uplift created by rezoning decisions until such time the government (and this could happen through the Productivity Commission review) comes up with a better mechanism that ensures that the unearned windfalls that come with planning decisions and infrastructure investments are fairly shared between the landowner and the wider community.

4.3.4 Recommendations

5. FCC supports the thrust and much of the content of the draft planning agreement practice note as an important tool in engendering faith and trust in the planning system. Council particularly supports the practice note requirement that agreements relate to and actively support the local council's strategic land use and infrastructure planning to meet the needs of future population, with the provision of public benefits relating in part to demand generated by the development.

6. Council supports planning agreements continuing to be used as a means for the public to share in any land value uplift created by rezoning decisions until such time the Government (and this could happen through the Productivity Commission review) comes up with a better mechanism that ensures that the unearned windfalls that come with planning decisions and infrastructure investments are fairly shared between the landowner and the wider community.

7. The draft practice note, or some other advice document containing the same content, should apply to all planning authorities that negotiate planning agreements, and not just councils.

4.4 Draft Special Infrastructure Contributions (SIC) Guidelines

4.4.1 Accountability

FCC welcomes the Government's attempt to set out the SIC process to councils, communities and developers. However, Council has several concerns with the draft guidelines and the SIC system generally.

FCC's view is that there should be a similar level of accountability for SIC revenue and expenditure as for local contributions.

Although SICs and local contributions both collect and spend developers' money on infrastructure, the public accountability requirements are very different. For example:

a. If s7.11 contributions are unreasonable they can be challenged in court – SICs are not subject to any reasonableness right of appeal

b. S7.11 and s7.12 contributions have regulated accounting and reporting requirements – SICs do not

c. S7.11 contributions plans containing contribution rates above a certain threshold have to be independently reviewed by IPART – SICs are not subject to any independent review

d. S7.11, s7.12 and planning agreement monetary contributions must be spent in a reasonable time – SICs are the only type of contribution not subject to this requirement.

Essentially the guidelines discuss principles and overarching concepts of accountability but there remains no statutory commitment by the State to the same level of scrutiny and regulation that it imposes on local government.

4.4.2 Uncertainty in delivery

The following statements in section 9 of the draft guidelines provide little confidence in the timely provision of SIC infrastructure:

> *The SIC funding cycle will only commence when sufficient revenue is collected in a SCA and there is sufficient confidence that a substantial delivery program can be committed to.*
>
> *SIC revenue can take some years to accumulate to an adequate level to fund a major capital investment program.*

A SIC is only one source of funding for major infrastructure items. SIC will never (and should never aim to) secure 100% of costs given that the infrastructure it yields benefits beyond the Special Contributions Area itself. This was the approach used in the Western Sydney Growth Centres SIC.

Because SIC revenue will generally not cover the full cost of an item, the programming of expenditure will be a wider budget question and timing of provision will reflect funding available from all sources (including taxation) not just SIC. This suggests even greater requirement for transparent reporting of receipts, expenditure and anticipated programming (see above comments).

4.4.3 Recommendations

8. Council supports the initiatives for greater accountability and transparency in the preparation and implementation of SICs, but suggests the Government go further than indicated in the draft guidelines by:

    a. showing the indicative timeframe for the preparation and finalisation of a SIC

    b. SICs being subject to the same transparency and accountability requirements as local contributions through amendment of the EP&A Regulation.

4.5 Proposed amendments to the EP&A Regulation – policy paper and draft regulation

4.5.1 Recommendations

9. Council recognises the importance of the transparent administration of a contributions system in building stakeholder confidence that local infrastructure is provided to acceptable standards and in a reasonable time. Council therefore supports the proposed changes to the EP&A Regulation requiring greater reporting, but with the proviso that the changes do not lead to excessive administrative burden without funding support from Government, or from users of the system (e.g. through a higher administration charge in the contribution).