Item 8.3
At Council
14 December 2020

Relevant Information for Council

FILE:	**S064204**	**DATE:**	14 December 2020
TO:	Lord Mayor and Councillors		
FROM:	Andrew Thomas, Acting Director Planning, Development and Transport		
SUBJECT:	Information Relevant To Item 8.3 – Post Exhibition - Planning Proposal - Central Sydney 2020 - Draft Sydney Development Control Plan 2012 - Central Sydney - Draft Central Sydney Development Contributions Plan		

Alternative Recommendation

It is resolved that:

(A) Council note the matters raised in submissions to the public exhibition of Planning Proposal: Central Sydney 2020, Draft Development Control Plan: Central Sydney, Draft Central Sydney Development Contributions Plan 2020 and draft amendments to the Competitive Design Policy as shown at Attachment A to the subject report;

(B) Council request the Minister for Planning and Public Spaces amend Clause 25K of the Environmental Planning and Assessment Regulation 2000 to allow for a contributions levy of up to 3 per cent to apply to new development;

(C) Council approve the Planning Proposal: Central Sydney 2020 as shown at Attachment B, to be made as a local environmental plan under s3.36 of the Environmental Planning and Assessment Act 1979 subject to Clause 25K of the Environmental Planning and Assessment Regulation 2000 being amended as requested in resolution (B), ***with the following amendment:***

(i) ***the residential and serviced apartment use bonus in the accommodation floor space provisions are reduced by 50 per cent after 1 year of, and 100 per cent after 2 years from the making of the local environmental plan, except for the City Core (Area 1) which is to be reduced by 100 percent on the making of the local environmental plan;***

(D) Council approve the Draft Development Control Plan: Central Sydney, shown at Attachment D to the subject report, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000 ***with the following amendment:***

(i) ***Show 93-97 Macquarie Street, Sydney with a maximum building height of 55 metres and street frontage height setbacks of 8 metres along Albert Street and 10 metres along Macquarie Street in Figure 5.9***;

(E) Council approve the Draft Central Sydney Development Contributions Plan 2020 at Attachment E to the subject report, noting it will commence only following the amendment of Clause 25K of the Environmental Planning and Assessment Regulation 2000 and the making of the amendment to the local environmental plan;

(F) Council approve the draft amendments to the Competitive Design Policy, as shown at Attachment F to the subject report, noting that it will come into effect on the date of publication of the subject local environmental plan;

(G) Council note the Guideline for Site Specific Planning Proposals in Central Sydney, as shown at Attachment G to the subject report, will be used to guide the preparation of planning proposals in Central Sydney;

(H) Council approve the draft Central Sydney Planning Strategy as shown at Attachment C to the subject report;

(I) authority be delegated to the Chief Executive Officer to make minor amendments to the Planning Proposal: Central Sydney 2020, Draft Development Control Plan: Central Sydney, Draft Central Sydney Development Contributions Plan 2020, draft amendments to the Competitive Design Policy and draft Guideline for Site Specific Planning Proposals in Central Sydney, including to correct drafting errors;

(J) ***the Chief Executive Officer be requested to investigate:***

(i) ***the inclusion of additional non-residential uses in the uses that may be eligible for accommodation floor space including Public Administration building, Indoor recreation facilities, Registered clubs, Place of public worship and Local distribution premises;***

(ii) ***additional floor space for employment uses in Tower Cluster Areas;***

(iii) ***incentives for the retention of existing buildings in development for the purposes of reducing waste and embodied energy; and***

(K) ***the Chief Executive Officer be requested to carry out workshops with industry stakeholders on the Guideline for Site Specific Planning Proposals in Central Sydney, and Schedule 11 of the Development Control Plan.***

Purpose

To provide additional information and alternative recommendations for the Council's consideration in response to information requested by Councillors, the resolution of the Central Sydney Planning Committee on 10 December 2020 and further submissions from stakeholders.

Background

At the meeting of the Transport, Heritage and Planning Committee on 7 December 2020, Councillors requested the following information:

- an income forecast if development contributions in Central Sydney are charged as a progressive levy rather than a flat levy; and
- minimum site area requirement change from 1000sqm to 2000sqm

Additional information was provided to Councillors through submissions following the publication of the agenda and reports for the Transport, Heritage and Planning Committee of 7 December 2020 from the Property Council of Australia, Urban Taskforce, Stockland, Catholic Archdiocese of Sydney and Norton Rose Fulbright. The issues raised are addressed below.

In relation to the subject report, Central Sydney Planning Committee resolved on the 10 December 2020 to amend the planning proposal to stage the reduction of the accommodation floor space bonus for residential development and request Council investigate further changes to the planning framework.

Development contributions

Progressive levy vs flat levy

The draft Central Sydney Development Contributions Plan 2020 (the draft Contributions Plan) currently proposes a flat sliding scale. The levy payable is determined as follows: development cost x corresponding levy rate.

With a "progressive" sliding scale levy, the total levy would be sum of the percentage applied to each cost bracket in a single development, at the following rates.

Cost brackets within a single development	**Levy rate**
Less than $250,000	NIL
$250,000 or more, but less than $500,000	1%
$500,000 or more, but less than $1,000,000	2%
$1,000,000 or more	3%

The levy payable would be determined as follows: (amount <$250,000 x 0%) + (amount between $250,000 to <$500,000 x 1%) + (amount between $500,000 to <$1,000,000) x 2%) + (amount $1,000,000 or above x 3%).

The Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 sets a framework for how councils levy s7.12 contributions. Section 7.12 (1) of the Act states the consent authority may require the applicant to pay a levy that is a percentage of the proposed cost of carrying out the development. The legislation and the NSW Government's accompanying practice notes do not make provision for a progressive levy and no councils in NSW have a progressive levy for contributions. Section 7.12 contributions are intended to be a simple contributions framework that is an alternative to a nexus based contribution under section 7.11 of the Act. The progressive levy will introduce complexity for proponents and the City and is inconsistent with the legislation and guidance. Financial analysis to forecast the potential income from a progressive levy and a flat levy has been undertaken, taking into account current market conditions. Forecasting potential contributions income in the current economic context is challenging, largely as a result of the time delay between the current situation and the availability of data.

Notwithstanding these limitations, the financial analysis estimates the following:

	4 year forecast income (1 July 2021 to 30 June 2025)	
	Immediate implementation	**2 year delay**
Business as usual (1%)	$74 million	-
Flat levy (recommended)	$190 million*	$140 million*
Progressive levy	$171 million	$130 million

Table 1: Estimated contributions income from flat and progressive levies and immediate and delayed implementation

*The report to Council's Transport, Heritage and Planning Committee of 7 December 2020 provided income estimates for the proposed flat levy of $176 million for immediate implementation and $129 million with a two year delay. As a result of further analysis, these figures have been revised upwards.

Table 1 above shows if the three percent levy was to be implemented immediately and a progressive levy was implemented there would be a sustained reduction or $19 million loss in contribution income over four years. It is important to note that in addition to the above forecast loss the contribution income reduction would continue as it would likely carry over to future plans. Moving from a flat to a progressive levy is not a temporary response to the current economic impacts of Covid-19.

Property Council of Australia's request to defer the contributions plan

The Property Council of Australia's (PCA) submission seeks to defer consideration of the increase in contributions at this time due to the impact of Covid-19 on the development industry.

The Central Sydney Planning Strategy is a comprehensive long-term strategy to grow the economic capacity of Central Sydney, ensure good design and provide infrastructure. These three elements—growth, design and infrastructure—are intended to progress together.

In December 2019, the Department of Planning, Industry and Environment and the City agreed to the preparation of a new contributions plan under section 7.12 of the Act with a levy of 3% on the cost of development as the preferred infrastructure funding mechanism with removal of the provisions relating to development contributions, being the community infrastructure contribution for planning proposals in the draft Guideline for Site Specific Planning Proposals in Central Sydney (2019).

The deferral of the new Contributions Plan and the increased levy is not recommended as there is a need to fund the delivery of infrastructure, support the increase in floor space provided in the planning proposal and ensure Central Sydney remains an attractive place for investment.

The report to Council's Transport, Heritage and Planning Committee on 7 December 2020 discusses the option to delay the increased levy in response to COVID-19 for two years. If a delay is supported the Contributions Plan would be updated to require a 1% contribution, similar to the existing arrangement, for 2 years from implementation of the Plan with the full levy imposed after that time. The estimated financial impact of a two-year delay is $50 million over the 4 year life of the plan as shown in Table 1 above.

It is noted that even if Council adopts the Contributions Plan with the full 3% levy it will not be able to impose any levy over 1% until the Minister for Planning and Public Spaces changes the Regulations.

As outlined in the report to Council's Transport, Heritage and Planning Committee on 10 February 2020, the Department of Planning, Industry and Environment's preferred approach is to prepare a flat rate Contributions Plan with a levy of 3% to fund infrastructure in lieu of the community infrastructure contribution in the draft Guideline for Site Specific Planning Proposals as reported to Council on 11 March 2019.

If the approach to delay implementation of the full increase in contributions is approved and implemented, it is recommended the community infrastructure contribution**,** previously provided in the draft Guideline (March 2019)**,** be endorsed for consideration in the preparation of planning proposals until such time as the 3% levy is in force**.**

Removal of the accommodation floor space incentive for residential development

The PCA and Urban Taskforce seek a more precautionary approach to the removal of the accommodation floor space incentive for residential accommodation and serviced apartments.

The removal of the incentive is an essential part of the Central Sydney Planning Strategy to support the critical economic role Central Sydney plays in the Sydney, state and national economies. The approach aligns with the NSW Government's Region and District Plans.

In line with the resolution of the Central Sydney Planning Committee on 10 December 2020, a staged removal of the incentive over 2 years is recommended. This will provide the market with a wider range of development opportunities during the COVID-19 recovery and further time to adjust to the new controls. It is proposed that the accommodation floor space for residential accommodation and serviced apartments is reduced by 50 per cent after 1 year, and 100 per cent after 2 years from the making of the LEP, except for the City Core (Area 1) which is to be reduced by 100 per cent on the making of the LEP.

Further increases to floor space ratios

Submissions from the Property Council of Australia and Stockland suggest further work be done to review the accommodation floor space provisions to incentivise commercial uses. The planning proposal is delivering significant floor space increase with the 50 per cent floor space bonus for employment uses in tower cluster areas. However, further detailed review can be carried out within tower cluster areas for potential further floor space, as recommended in (J)(ii) above. This memo also recommends the investigation of incentives for the retention of existing buildings in development for the purposes of reducing waste and embodied energy in response to the resolution of the Central Sydney Planning Committee.

Guideline for Site Specific Planning Proposals and Schedule 11 in Development Control Plan

Both the PCA and Stockland raise concerns about the Guideline for Site Specific Planning Proposals and Schedule 11 of the draft Development Control Plan and have requested a workshop with council staff and industry representatives to improve understanding and use of the Guideline and the DCP. The two documents are essential to achieving good design and amenity outcomes alongside the growth and infrastructure envisaged under the Central Sydney Planning Strategy. The Guideline is a procedural document to assist proponents prepare site specific planning proposal requests. Its content aligns with the draft controls that have been the subject of public exhibition. The City continues to work with proponents as they prepare proposals in accordance with these documents. The City will host a workshop with industry on the Guideline and Schedule 11 before the amendments come into force.

Additional land uses eligible for accommodation floor space

Stockland's submission notes that the City has made changes to the extent of uses eligible for the accommodation floor space bonus, however, sought the further inclusion of public administration building, indoor recreation facilities, registered clubs, place of public worship and local distribution centres. Further investigation is required before they can be included. For example, some uses, such as local distribution centres and registered clubs, already receive an incentive. Further investigation is recommended.

Ambiguity in Special Character Area controls in the Development Control Plan

Norton Rose Fulbright raise concerns about ambiguity in the Special Character Area provisions for 93-97 Macquarie Street, Sydney. Noting the recent consent D/2017/1609 granted in March 2020, minor adjustments to the DCP are recommended. The amendments would remove ambiguity with regards to the height (55 metres) and setback controls (8 metres) for the site and align with the recent consent.

View Corridors

The PCA raises concerns with the proposed view corridor provisions for Martin Place.

The Martin Place view is currently protected through the existing height controls. Allowing additional growth along the western edge of Central Sydney required a new control to continue the protection of this view from one of Sydney's most important public spaces. The Design Advisory Panel concluded that maintaining open sky around significant civic spaces is a key component of the Strategy and that as urban densities increase sky view within key civic spaces is a necessary amenity for people on the street. No change is recommended.

Minimum site area for tower cluster development

The Urban Taskforce submission requested the minimum site area for tower cluster development be reduced. The Central Sydney Planning Proposal allows development in Tower Clusters to achieve a floor space bonus of up to 50% for employment uses, along with heights up to sun access planes or aviation limits (about 300 metres) through a development application process. The Planning Proposal requires a minimum 2,000 square metre site area for Tower Cluster development. Reducing the minimum site area requirement from 2,000 square metres to 1,000 square metres is not recommended due to the poor environmental and amenity outcomes that are likely to result, particularly from wind. The larger site area is required to provide adequate setbacks above street frontage height while still allowing a minimum 800 square metre commercial floor plate and the servicing requirements (lifts and structure) for tall towers. No change is recommended to the planning proposal.

Savings provisions

The Urban Taskforce, Catholic Archdiocese of Sydney and Norton Rose Fulbright raise concerns about the savings provisions. The Planning Proposal as amended introduces a savings provision in response to submissions. Planning Proposals do not include the final drafting of provisions. As the City does not have delegation drafting will be done by the Department of Planning, Industry and Environment and Parliamentary Counsel.

Submissions

The Committee report identifies 86 submissions were received plus several agency submissions. The correct number is 87 submissions. The additional submission was originally perceived as a duplicate as it came from the same family and contained the same content, but it was submitted as a separate submission. A response to the issues raised is provided in the Committee report.

Memo from Andrew Thomas, Acting Director Planning, Development and Transport

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Approved

ANDREW THOMAS

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