

## Item 7.

### **Post Exhibition - Planning Proposal - Affordable Housing Program Update - Sydney Local Environmental Plan 2012, Sydney Local Environmental Plan (Green Square Town Centre) 2013, Sydney Local Environmental Plan (Green Square Town Centre - Stage 2) 2013, Draft City of Sydney Affordable Housing Program 2022 and Draft Affordable Housing Contributions Interim Distribution Plan**

**File No: X084801**

#### **Summary**

Sydney remains Australia's least affordable city. The high cost of housing is an important economic and social risk, particularly within the City of Sydney local government area (LGA) where housing prices are amongst the highest in Australia.

Sustainable Sydney 2030-2050 Continuing the Vision maintains the target in the City's Local Housing Strategy: Housing for All for 7.5 per cent of all private dwellings to be Affordable Housing. Based on a private dwelling target of about 156,000 to 2036, an estimated 12,000 affordable dwellings are required to achieve the City's target to 2036.

To date, the City has collected, and passed on to a community housing provider (CHP), over \$378 million in Affordable Housing contributions and provided \$24 million in discounted land and \$10 million in grants towards Affordable Housing. As at 1 July 2022, the City has 1,427 built Affordable Housing units in the local area, 641 dwellings in the development pipeline and a further 701 that are anticipated to be built in the future (but not yet in the development pipeline). Going forward, the City's Affordable Housing contribution schemes, which now cover all of the local government area, are expected to deliver about 1,950 additional affordable dwellings.

Altogether, about 4,200 Affordable Housing dwellings are forecast under existing programs, being about one third of the City's 12,000 target to 2036. These forecasts will be impacted by how successfully CHPs leverage Affordable Housing contributions funds. More substantial support for the provision of Affordable Housing is required from the Federal and NSW Government if the Affordable Housing targets for the City of Sydney Local Government Area (LGA) are to be achieved.

This report follows the public exhibition of Planning Proposal: City of Sydney Affordable Housing Program Update (planning proposal) and draft City of Sydney Affordable Housing Program Amendment 2022 (draft Program) and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (draft Interim Distribution Plan), collectively referred to as the 'Affordable Housing provisions'. The publicly exhibited Affordable Housing provisions were to:

- increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, consistent with the NSW Government's Pyrmont Peninsula Place Strategy, so that it aligns with other areas in the City;

- establish an interim plan for the distribution of Affordable Housing contribution funds, that expands the list of CHPs who may receive Affordable Housing contribution funds collected by the City from one CHP to three CHPs;
- reallocate contribution funds arising from development in the Southern Employment Lands from the NSW Department Communities and Justice (DCJ), to instead be allocated in accordance with any adopted distribution plan; and
- streamline the Program, remove unnecessary information, and make minor housekeeping amendments to clarify content.

24 submissions were received in response to the public exhibition, including 19 submissions from the general community, two from public authorities, and three from those CHPs that were identified as recipients of Affordable Housing contribution funds in the exhibited draft interim distribution plan. A summary of submissions, and the City's response, is at Attachment A.

Some community submissions expressed strong support for the proposals, while others raised concerns about more Affordable Housing in their local area. Submissions from the Land and Housing Corporation and DCJ expressed general support for the City's efforts in increasing Affordable Housing.

Submissions from Bridge Housing and St George Community Housing, being those CHPs proposed to receive contribution funds who previously have not, supported the wider distribution of Affordable Housing contribution funds. Despite all Tier 1 and Tier 2 CHPs operating in the Sydney metropolitan area being notified of the proposals, no other submissions from CHPs were received seeking participation in the City's Program.

A submission from City West Housing, which currently receives all of the Affordable Housing contribution funds (other than those generated in the Southern Employment Lands), generally supported the wider distribution of contribution funds over time. However, it raised concerns about the impact the change would have on its ability to deliver its significant development pipeline of over 500 dwellings in the City of Sydney local area, where funds that had previously been expected and relied on would no longer be forthcoming. It also raised concerns that Affordable Housing contribution funds being shared between three providers would spread funding too thin, and that it would take much longer for CHPs to amass sufficient funds to move forward with projects. This latter concern was also raised by DCJ in their submission. These issues are still being considered.

The Gateway Determination for the planning proposal requires that it be finalised by 19 August 2023. Finalising the planning proposal is essential to increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, where more development is imminent following the implementation of the NSW Government's Pyrmont Peninsula Place Strategy. For this reason, finalisation of the proposed Affordable Housing provisions cannot and should not be delayed.

Following consideration of submissions, this report recommends the approval of the planning proposal and draft Program (both with post exhibition changes), together with the draft Interim Distribution Plan, as it was publicly exhibited, but with a delayed commencement date of 1 July 2024.

While efforts have been made to prepare a final distribution plan that could be considered for adoption together with the planning proposal, it has not been possible within the Gateway Determination timeframes. Further work is needed to resolve issues raised by CHPs and DCJ in their submissions before the detail of a distribution plan can be finalised and put to Council for their consideration.

It is also considered prudent to delay finalising the distribution plan given the fast-evolving housing policy landscape. Opportunities for the distribution plan may emerge from the introduction of the Housing Australia Future Fund (HAFF) by the Federal Government, or complementary incentive / funding schemes that may be announced by the new state government as it resolves its approach to addressing the housing crisis in the coming months.

Adopting the draft Interim Distribution Plan now allows the planning proposal to progress and provides time to implement the significant administrative structures needed to support the change in approach, including the preparation of funding agreements with receiving CHPs.

Other proposed post exhibition changes to the publicly exhibited Affordable Housing provisions, include:

- a change to the planning proposal to address an omission relating to development that may be exempt from making a contribution or have a reduced contribution requirement applied. The draft Program, as exhibited, introduced a reduced contribution requirement if development would result in an Affordable Housing contribution of more than 15 per cent of the agreed cost of construction. In order to facilitate this intent, the planning proposal now adjusts the current wording of the Affordable Housing provisions in Sydney Local Environmental Plan 2012 accordingly.
- a change to the draft Program to ensure it can apply should any future Environmental Planning Instrument (EPI) which concerns Affordable Housing contributions in the City of Sydney be amended. The amendment is intended to facilitate the long-term flexibility of the Program by minimising the need for additional amendments where there may be changes to state environmental planning policies and the like.
- a change to the draft Program to improve how the equivalent monetary contribution amount is indexed, to reflect a fuller and more accurate picture of the current housing market rather than relying wholly on one single quarter of data;
- a change to the draft Program to provide information about the circumstances under which contribution funds may be refunded; and
- further minor (non-substantive) changes to streamline the draft Program by removing unnecessary information and making minor housekeeping amendments to clarify content.

The proposed Affordable Housing provisions aim to improve the provision of Affordable Housing from the City's contribution schemes by encouraging innovative use of contribution funds and increasing the contribution requirement in Ultimo-Pyrmont to align with other parts of the local government area.

## Recommendation

It is resolved that:

- (A) the Central Sydney Planning Committee note the matters raised in response to the public exhibition of Planning Proposal: City of Sydney Affordable Housing Program Update and draft City of Sydney Affordable Housing Program Amendment 2022 and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, as described at Attachment A to the subject report;
- (B) the Central Sydney Planning Committee approve Planning Proposal: City of Sydney Affordable Housing Program Update, shown at Attachment B to the subject report, as amended, to be made as a local environmental plan under Section 3.36 of the Environmental Planning and Assessment Act 1979;
- (C) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 19 June 2023 that Council approve the draft City of Sydney Affordable Housing Program Amendment 2022, shown at Attachment C to the subject report, as amended, noting that it will come into effect on the date of publication of the subject local environmental plan, in accordance with Clause 20 of the Environmental Planning and Assessment Regulation 2021;
- (D) the Central Sydney Planning Committee note the recommendation to Council's Housing For All Committee on 19 June 2023 that Council approve the draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, shown at Attachment D to the subject report, as amended, noting it will not commence until 1 July 2024;
- (E) the Central Sydney Planning Committee note that following further research and stakeholder consultation it is intended that a final distribution plan will be reported to Council prior to 1 July 2024; and
- (F) authority be delegated to the Chief Executive Officer to make any minor amendments to Planning Proposal: City of Sydney Affordable Housing Program Update, the draft City of Sydney Affordable Housing Program Amendment 2022 and the draft City of Sydney Affordable Housing Contributions Interim Distribution Plan, to correct any drafting errors or inconsistencies, prior to finalisation.

**Attachments**

- Attachment A.** Summary of Submissions and Responses
- Attachment B.** Planning Proposal: City of Sydney Affordable Housing Program Update (as amended following public exhibition)
- Attachment C.** Draft City of Sydney Affordable Housing Program Amendment 2022 (as amended following public exhibition)
- Attachment D.** Draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (as amended following public exhibition)
- Attachment E.** Gateway Determination
- Attachment F.** Council and Central Sydney Planning Committee Resolutions

## Background

1. This report follows the consideration of submissions made to the public exhibition of Planning Proposal - City of Sydney Affordable Housing Program Update (planning proposal) and draft City of Sydney Affordable Housing Program Amendment 2022 (draft Program) and draft City of Sydney Affordable Housing Contributions Interim Distribution Plan (draft Interim Distribution Plan), collectively referred to as the 'Affordable Housing provisions'.
2. The current and proposed Affordable Housing provisions (as publicly exhibited) are described in detail in the pre-exhibition report to the Housing for All Committee (Committee) and the Central Sydney Planning Committee (CSPC), dated 20 June 2022 and 23 June 2022 respectively. The Housing for All Committee report is available at <https://city.sydney/ru5> (item 2). Additional information and alternate resolutions were provided in a series of Relevant To memos, including:
  - (a) to Committee, dated 20 June 2022, available at <https://city.sydney/jsr>
  - (b) to CSPC, dated 21 June 2022, available at <https://city.sydney/1a3>
  - (c) to CSPC, dated 23 June 2022, available at <https://city.sydney/69v>
  - (d) to Council, dated 24 June 2022, available at <https://city.sydney/06q>
3. Council and the CSPC, at their meetings on 27 June 2022 and 23 June 2022 respectively, approved for Gateway Determination (gateway) and public exhibition a planning proposal, and for public exhibition, a draft Program and a draft Interim Distribution Plan. The Council and CSPC resolutions are shown at Attachment F to this report.
4. In August 2022, the NSW Department of Planning and Environment (Department) issued a conditional gateway for the planning proposal, requesting minor changes and clarifications be made prior to public exhibition. The planning proposal was amended in accordance with the gateway, and was publicly exhibited with the draft Program, draft Interim Distribution Plan and supporting research.
5. This report recommends the Central Sydney Planning Committee approve the planning proposal, as amended following public exhibition, to amend Sydney Local Environmental Plan 2012 (Sydney LEP), Sydney Local Environmental Plan (Green Square Town Centre) 2013, and Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013. It also recommends the Central Sydney Planning Committee approve the draft Program and the draft Interim Distribution Plan, as amended following public exhibition. The planning proposal, draft Program and draft Interim Distribution Plan, as amended, are provided at Attachments B, C and D respectively.
6. The proposed Affordable Housing provisions, as amended following public exhibition, will:
  - (a) increase the Affordable Housing contribution obligation in Ultimo-Pyrmont, consistent with the NSW Government's Pyrmont Peninsula Place Strategy, so that it aligns with other areas in the City. The proposed changes may deliver up to an estimated 250 Affordable Housing dwellings;

- (b) establish an interim plan for the distribution of Affordable Housing contribution funds. The plan expands the list of community housing providers (CHPs) who may receive funds. It will commence on 1 July 2024 if an amended final plan for the distribution of funds has not been adopted by Council at that time;
- (c) reallocate contribution funds from development in the Southern Employment Lands from the Department Communities and Justice, to any CHPs identified in any adopted distribution plan; and
- (d) streamline the Program, remove unnecessary information, and make minor housekeeping amendments to clarify content.

## Public Exhibition

7. In accordance with the Gateway Determination, the City of Sydney Community Engagement Strategy, and Community Participation Plan 2022, the proposed Affordable Housing provisions were exhibited from 18 October to 29 November 2022.
8. The City notified in writing about 9,100 landowners in Ultimo-Pyrmont of the exhibition. It also notified the 24 Tier 1 and Tier 2 community housing providers (CHPs) operating in the Sydney metropolitan area and peak housing bodies, including Shelter NSW and the Community Housing Industry Association (CHIA). The exhibition was also advertised on the City's Sydney Your Say webpage.
9. In accordance with the gateway, the following public authorities were also notified of the public exhibition:
  - (a) NSW Land and Housing Corporation (LAHC); and
  - (b) NSW Department of Communities and Justice (DCJ).
10. 24 submissions were received, including 19 submissions from the general community, two from public authorities, and three from those CHPs that were identified as recipients of Affordable Housing contribution funds in the exhibited draft interim distribution plan. No other CHPs made submissions. A summary of submissions, and the City's response, is at Attachment A of this report with key issues discussed below.

### *City West Housing*

11. A submission was received from City West Housing (City West), who is currently the only CHP receiving funds under the current Program. Attachment A provides a detailed breakdown of the points raised.
12. The submission reiterates City West's capabilities and experience in the community housing sector and working with the City to deliver Affordable Housing supply in the Local Government Area.
13. City West requests acknowledgement that until 2020 it was prevented from borrowing against its asset base or entering partnerships and joint ventures due to governmental constraints, creating an unfair assumption that its assets have not been effectively leveraged. The constraints are now removed, and City West has now secured finance to deliver its next development project of 74 homes in Waterloo.

14. City West notes that the draft Interim Distribution Plan in its current form risks the delivery of its existing pipeline of over 500 dwellings in the City of Sydney local area. City West recommends that the proposed changes to the distribution of funding be phased in to ensure its capacity to service:
  - (a) its established properties;
  - (b) properties that have been committed to in the development pipeline;
  - (c) other properties in the development pipeline in the development application or pre-development application stage; and
  - (d) the level of support and devices it has promised to deliver its residents and partner agencies.
15. While this report recommends adoption of the draft Interim Distribution Plan as it was publicly exhibited, it is noted that a final distribution plan is being prepared for the consideration of Council and the Central Sydney Planning Committee to address unresolved issues and recommends the deferred commencement of the Interim Distribution Plan until 1 July 2024.
16. The impact on City West's development pipeline will be further considered in the preparation of the final Distribution Plan.
17. City West recommends the contribution funds should not be distributed to more than two CHPs at any one time to encourage efficiencies from the scale of operations. These include:
  - (a) efficiencies in servicing properties;
  - (b) efficiencies from larger portfolios in a defined geography to enable the leveraging of rental surpluses from other properties they own or manage in the area and to gain access to finance to further increase Affordable Housing in the local area; and
  - (c) effective relationship building and efficiencies for support service providers servicing tenants of the CHPs.
18. The efficiencies from larger scale operations will be further considered in the preparation of the final Distribution Plan.
19. City West highlights that the Program's prescribed tenure mix for dwellings being dedicated may be difficult to maintain over time, as the life-stage and circumstance of tenants change. City West recognises that a tenant's income can change and maintains tenure mix across its City portfolio rather than ejecting tenants from individual developments to retain an appropriate mix. City West recommends that if the City requires a specific tenure mix for a project at the time of dedication, the Program should acknowledge the need for some flexibility in tenure mix over time.
20. City West also questions the intent behind the Program's required tenure mix in the Employment Lands. In this area, the Program currently requires at least 15 per cent of dwellings to be allocated to very low income households and 15 per cent to low income households. This is to ensure that not all people housed in the Employment Lands are moderate-income workers, but also that a higher proportion of workers are able to be housed in this location.



21. City West recommends that it may be clearer to frame the requirement as up to 70 per cent of dwellings being allocated for income-eligible employed households. This would provide flexibility for low and/or moderate income working households to make up the 70 per cent, whilst still retaining 30 per cent of the housing for lower income households who may not be currently employed.
22. As a result of City West's submission, it is proposed to amend Section 2.1.6 and 3.1 of the exhibited draft Program in accordance with City West's recommendation to clarify the desired tenure mix for dwellings to be dedicated and in the Employment Lands.

*Additional CHPs identified in the draft Interim Distribution Plan*

23. The exhibited draft Interim Distribution Plan identified St George Community Housing (St George) and Bridge Housing (Bridge) as additional Recommended CHPs alongside City West Housing to receive funding from collected Affordable Housing levies. Both CHPs made submissions to the public exhibition of the proposals.
24. St George's submission highlights the capability and capital it would provide to support the City in delivering Affordable Housing. St George is a Tier 1 community housing provider with a development pipeline of 818 units over the next three years, including 190 dwellings in the City of Sydney.
25. St George's submission identifies capabilities in development, construction, asset management, tenancy management services, support coordination and place-based community development. It also demonstrates financial stability and a track record of raising capital at scale.
26. St George commits to partner with the City to provide affordable homes that are well designed, accessible, environmentally sustainable and meet community need, prioritising allocation to targeted vulnerable groups including Aboriginal and Torres Strait Islands people and families.
27. Bridge Housing has made further representation reiterating its interest in working with the City to deliver increased Affordable Housing supply in the City, following its original request to be considered as a Recommended CHP which established its current status, capabilities and experience in the community housing sector. Bridge Housing's original request to the City is discussed in the pre-exhibition report to Council and CSPC.
28. Bridge welcomes the efforts of the City to streamline the management of Affordable Housing funding and the move towards enabling additional CHPs to access contribution funds.
29. Bridge's submission also identifies Bridge as the CHP with the largest social and Affordable Housing footprint in the City of Sydney LGA, with a head office in the LGA, generating a deep connection to the local community.
30. It is Bridge's view that chosen additional providers should be those with their operations based primarily in the LGA, so that they understand and are focussed on delivering outcomes for the local community.
31. Both St George and Bridge strongly support being able to receive Affordable Housing funds in the draft Interim Distribution Plan. The City recognises the experience, capabilities and established partnerships both CHPs have in the community housing sector and in providing Affordable Housing within the City of Sydney LGA.

32. While this report recommends adoption of the draft Interim Distribution Plan as it was publicly exhibited, it is noted that a final distribution plan is being prepared for the consideration of Council and the Central Sydney Planning Committee. The City considers it would be prudent to seek further information and confirm the current position of both St George and Bridge, including their current projects, commitments, completion of developments, financial stability and so on. In addition, the matters raised in these submissions will also be further considered in the development of the final Distribution Plan.
33. No change is recommended to the exhibited planning proposal or draft Program as a result of these submissions.

*Public authority consultation*

34. A submission was received from NSW Land and Housing Corporation (LAHC) that supported the proposed Affordable Housing amendments and congratulated the City of Sydney on its efforts to increase affordable housing in the local area.
35. No change to the publicly exhibited Affordable Housing provisions are recommended because of this submission.
36. A submission was also received from NSW Department of Communities and Justice (DCJ). DCJ generally abstained from expressing views for or against the proposal, given that the NSW Government is a shareholder of City West.
37. DCJ supports the administrative change to the distribution of Employment Lands funds, which are currently transferred from the City to DCJ to allocate to CHPs, recognising that this would enable Council to deal with and distribute funds to CHPs directly.
38. DCJ's submission also expresses concerns around distributing funds across three CHPs. DCJ considers that this will dilute the impact of the funds, ultimately delaying the delivery of Affordable Housing as more time is required for fund accumulation before a CHP can initiate an Affordable Housing project. This impact would be more pronounced in the City, given the extremely high land values which would require larger amounts of money for financially viable projects.
39. DCJ also highlights the administrative burden to both Council and the chosen CHPs, raising the efficiency and value for money proposition of managing an overly complicated remittance of funds and the reporting requirements for how the money is quarantined, invested and spent.
40. DCJ considers that disbursing all accumulated funds to a single CHP via a competitive Expressions of Interest process would provide the best results for Affordable Housing delivery in the City.

41. The City's preferred approach for the use of Affordable Housing contribution funds is to allocate them directly to a CHP. This approach has been in effect since the introduction of Affordable Housing contribution requirements Ultimo / Pyrmont in 1996 and since that time has resulted in over 1,300 affordable dwellings (built, pipeline and expected) affordable dwellings resulting from levies in the local area. The benefits of this approach are to immediately move funds into the hands of the community housing sector who have the expertise to then purchase sites on the open market when they become available, without need to wait for government to allocate them funding, and then develop them. It effectively allows CHPs to operate as a developer would, without the challenges and uncertainties that may come from having to apply for grants on a case-by-case basis, allowing them to move forward with certainty.
42. DCJ also acknowledges the significant achievements of their partnership with the City in the Affordable Housing space and notes the future opportunities for continued partnership, including various tender programs run by DCJ and possible funding being explored through the Commonwealth Government's Housing Australia Future Fund (HAFF).
43. No change is recommended to the draft Interim Distribution Plan as a result of the LAHC or DCJ submissions. However, the question of the optimal number of CHPs will be given further consideration in the preparation of the final distribution plan, being prepared for the consideration of Council.

#### *Public support*

44. Five submissions received from the general public (not including those from public authorities or CHPs) expressed general support for the exhibited Affordable Housing provisions, with two submissions calling for a greater increase in contribution rates, given the need for Affordable Housing, and two supporting a wider distribution of funds.

#### *Public opposition*

45. Several submissions received from the general public expressed general opposition to the exhibited Affordable Housing provisions. Reasons included concerns about impact on property values, anti-social behaviour and that Affordable Housing should be provided in cheaper, less dense areas.
46. Submissions from the community, and the City's response, are provided in detail in the submissions table at Attachment A, with no change to the publicly exhibited Affordable Housing provisions recommended as a result.

#### **Other consultation**

47. In addition to statutory consultation, members of the City's Housing for All Working Group were also notified of the public exhibition of the Affordable Housing provisions and invited to make a submission. The working group received a briefing about the proposal on 8 November 2022, and a later progress briefing on the 7 May 2023.

### Post exhibition changes

48. Following consideration of submissions, and further consultation with CHPs, the Department of Planning and Environment and the City's Housing for All Working Group, the following changes are recommended to the publicly exhibited Affordable Housing provisions.

#### *Application of the Program*

49. The draft Program has been amended to ensure it can apply should any future Environmental Planning Instrument (EPI) be amended to include a provision requiring an Affordable Housing contribution be made in accordance with the Program. The amendment is intended to facilitate the long-term flexibility of the Program by minimising the need for additional amendments where there may be changes to state environmental planning policies and the like.

#### *Indexation of monetary contributions*

50. The equivalent monetary contribution amount in the Program is adjusted on an annual basis to ensure that the contribution rate keeps pace with the cost of providing housing. Contribution amounts captured in conditions of consent are also indexed in accordance with the Program to account for changes between the time of consent and the date of payment at first construction certificate.
51. The Program uses changes in the median strata dwelling price over time to do this, as published in the NSW Government's Rent and Sales Report. Currently, the Program compares the median price that was used to establish the current contribution rate with the most recently published median price in the Report.
52. The draft Program has been amended to update this method. It is proposed to establish new contribution rates using an average of the median strata dwelling prices from the four most recently published Rent and Sales reports. This will provide a fuller picture of the current housing market than relying wholly on one single quarter of data for the coming year ahead.

#### *Exemptions*

53. The draft Program has been amended to clarify that any floor space in a building, that is a stand-alone building, and includes predominantly Affordable Housing provided in accordance with the Program, is exempt from making an affordable housing contribution. For example, if an Affordable Housing building included ancillary non-residential floor space at ground level, then a contribution requirement would not apply to the entire building. Market units as part of an Affordable Housing building(s) are not exempt.

#### *Refunds*

54. The draft Program has been amended to provide guidance around the circumstances where Affordable Housing contributions that have already been paid may be refunded.

55. Clarification has been included that where a development has not commenced and the original payee decides not to proceed with the consent, a refund of contributions already paid may be considered. This includes cases where the consent has lapsed. The payee would be required to surrender the consent in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

*Further housekeeping amendments*

56. Some additional minor changes have been made to the text of the Program to streamline it and improve its readability. These changes do not affect the application or the outcomes of the Program.

*Draft Interim Distribution Plan*

57. This report recommends the approval of the planning proposal and draft Program (both with post exhibition changes), together with the draft Interim Distribution Plan, generally as it was publicly exhibited. Finalising the planning proposal secures the higher contribution rates proposed in Ultimo-Pyrmont, where more development is imminent following the implementation of the NSW Government's Pyrmont Peninsula Place Strategy.
58. While efforts have been made to prepare a final distribution plan that could be considered for adoption together with the planning proposal, it has not been possible within the Gateway Determination timeframes that require finalisation by August 2023. Further work is needed to resolve issues raised by CHPs and DCJ in their submissions before the detail of a distribution plan can be finalised and put to Council for their consideration.
59. It is also considered prudent to delay finalising the distribution plan given the fast-evolving housing policy landscape. Opportunities for the distribution plan may emerge from the introduction of the HAFF by the Federal Government, or complementary incentive / funding schemes that may be announced by the new state government as it resolves its approach to addressing the housing crisis.
60. It is recommended however that the draft Interim Distribution Plan be amended to delay its commencement until 1 July 2024. A finalised distribution plan will be reported for the consideration of Council in due course, with the aim of it being endorsed prior to the commencement of interim plan. In the event this does not occur, the delayed commencement of the draft Interim Distribution Plan allows for the arrangement of the significant administrative changes required to support the new approach, as well as the negotiation and preparation of individual legal agreements for with CHPs receiving contribution funds.
61. Until that time, the arrangements for the distribution of contributions will remain unchanged from those in place under the City of Sydney Affordable Housing Program as adopted in 2020.

*Planning proposal*

62. The planning proposal has been updated to address an omission relating to development that may be exempt from making a contribution or have a reduced contribution requirement applied.
63. The current Program details circumstances where requiring an Affordable Housing contribution would be unreasonable given the nature or cost of a proposed development. The draft Program, as exhibited, introduced a reduced contribution requirement if development would result in an Affordable Housing contribution which amounted to more than 15 per cent of the agreed cost of construction. In these circumstances, the Affordable Housing contribution requirement would be capped at 15 per cent of the agreed construction cost.
64. In order to facilitate this intent, the current wording of the Affordable Housing provisions in Sydney Local Environmental Plan 2012 must also be adjusted so that they require a contribution *not exceeding* (as opposed to *equivalent to*) the applicable Affordable Housing levy contribution stated. This proposed change was inadvertently left out of the original planning proposal and has now been updated to incorporate this amendment to Clause 7.13(2) of Sydney LEP 2012.
65. In addition, a number of minor amendments to planning proposal have been made to align it with the changes proposed to the draft Program described above.

**Next steps***Final Distribution Plan*

66. A final distribution plan is being prepared and is expected to be reported to Council for consideration in 2024.

*Funding agreements*

67. Irrespective of whether Affordable Housing contribution funds are distributed in accordance with an interim or a final distribution plan, prior to the distribution of Affordable Housing contribution funds to CHPs, the City will enter into a funding agreement with all CHPs receiving Affordable Housing contributions. The purpose of the funding agreement is to ensure contribution funds are being used for the purpose for which they were collected, being for the provision of Affordable Housing in the local area. A funding agreement will generally address the following:
  - (a) the obligations of the parties, being the CHP and the City;
  - (b) the way in which funds can be spent, being in accordance with the principles and requirements of the Program;
  - (c) reporting and monitoring requirements, for example, CHPs may be required to report on how funds are leveraged, demonstrate delivery benchmarks, and so on;
  - (d) dispute resolution protocols; and
  - (e) terms of termination of any agreement.

**Strategic Alignment**

68. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The proposed Affordable Housing provisions are aligned with the strategic directions and objectives.
69. The proposed Affordable Housing provisions give effect to the infrastructure, liveability, productivity and sustainability priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

**Relevant Legislation**

70. Environmental Planning and Assessment Act 1979.
71. Environmental Planning and Assessment Regulation 2021.
72. State Environmental Planning Policy (Housing) 2021.

**Critical Dates / Time Frames**

73. The gateway requires that the amendment to the subject LEPs is completed by 19 August 2023.
74. Authority for making the changes to the LEPs was requested, but not granted by the Department. If adopted, the planning proposal will be referred to the Department to finalise legal drafting.
75. The amendment to the subject LEPs will come into effect when published on the NSW Legislation website, with the draft Program coming into effect on the same day. The draft Interim Distribution Plan will come into effect on 1 July 2024 unless an amended distribution plan is adopted before that date.

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

Tamara Bruckshaw, Manager Green Square and Major Projects

Samantha Bird, Specialist Planner