

Item 3.

Public Exhibition - Planning Proposal - Affordable Housing Contributions Review - 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 and Draft City of Sydney Affordable Housing Program 2024

File No: X099241

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 area (the City) 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% of all private dwellings to be affordable (and diverse) housing. Based on a private dwelling target of about 156,000 by 2036, an estimated 12,000 affordable dwellings are required to achieve the City's target to 2036.

Increasing the total supply of housing is a key focus of federal, state and local governments. However, more supply will not necessarily decrease the cost of market housing in the City of Sydney, nor will new private market housing be delivered at a cost that is affordable for lower income segments of the community.

Affordable housing development contribution schemes are an important planning lever available to local government to ensure that as the supply of market housing is increased, that affordable housing for lower income households is also increased. This ensures diversity in the housing supply, but also ensures a diverse community can have their housing needs met.

In the City of Sydney, local environmental plans and the City of Sydney Affordable Housing Program (Program) provide a framework for 2 separate affordable housing contribution requirements that may apply to development in the local area, including a:

- rezoning affordable housing (AH) contribution (rezoning contribution) that is applied to new defined floor space that is achieved where there is a change to the planning controls, and
- broad-based local government area wide AH contribution (Local Government Area (LGA) contribution), that is applied to all qualifying development upon approval

Affordable housing contributions and infrastructure contributions applied at development approval are carefully calibrated to ensure they do not cause the delivery of market housing to become unviable and not proceed. As it is market housing production, that is levied for affordable housing contributions, where market housing becomes unviable AH contributions cannot be collected, and affordable housing will stall.

Since 1996, the evolution of affordable housing contribution schemes have resulted in about \$400m being passed to a not-for-profit community housing provider (CHP) to deliver affordable housing in the local area. An LGA wide contribution requirement came into effect in August 2020. This has resulted in around 1,534 affordable dwellings that have been built or are in the planning stages (as at June 2024). A high-level analysis projects the City's affordable housing contribution schemes, which were recently extended to cover all of the local government area, will deliver an additional 1,950 affordable dwellings.

Currently, the delivery of affordable housing is strongly influenced by market conditions, and the availability of other complimentary funding, subsidies, tax concessions and exemptions from the state and federal governments. The capital makeup or 'capital stack' for a project or program of projects, is the extent to which CHPs are able to leverage equity through affordable housing contributions or land to attract and orchestrate additional funding.

In June 2023, Council resolved to review the City's affordable housing contribution requirements and consider what changes could deliver more affordable housing in the local area. In February 2024, Council further resolved that Council be advised on options to give the City the ability to require that affordable housing contributions be delivered on site, in appropriate developments.

The City commissioned an independent economic assessment to review current contribution rates with feasibility testing throughout the LGA to inform their potential for increase. It also undertook further consultation with registered not for profit CHPs about the circumstances where dedicated affordable housing is suitable and could be sustainably managed.

Following the review and recommendations, the Planning Proposal - City of Sydney Affordable Housing Contributions Review (planning proposal) and draft City of Sydney Affordable Housing Program Amendment 2024 (draft Program), subject of this report, have been prepared to:

- simplify the rezoning contribution requirement with a consistent rate, but enable Council to require a contribution be satisfied through the dedication of built dwellings (in appropriate circumstances), instead of monetary contributions
- require the LGA contribution be satisfied by making an equivalent monetary contribution, and remove the option of dedicating built dwellings, and
- increase the equivalent monetary contribution rates (dollar rates) in the Program.

It is estimated that the proposed changes to the LGA wide contribution could deliver an additional 320 dwellings alone (independent of leveraged funding) in addition to the affordable housing outcomes already projected for delivery through the LGA contributions. This estimate may significantly increase where contributions, in particular monetary contributions, can be leveraged by CHPs through federal, state and local government funds and concessions.

Following consideration of the recommendations of the Rates Review the planning proposal and draft Program propose precinct-based dollar rates to be phased in over a period of 4 years from the final approval of the Program by Council.

This report details the outcomes of the review and recommends Council approve the planning proposal and draft Program to be referred to the Department of Planning, Housing and Infrastructure for Gateway Determination and subsequent public exhibition.

Recommendation

It is resolved that:

- (A) Council approve Planning Proposal - City of Sydney Affordable Housing Contributions Review, shown at Attachment A to the subject report, for submission to the Department of Planning, Housing and Infrastructure with a request for a gateway determination;
- (B) Council approve Planning Proposal - City of Sydney Affordable Housing Contributions Review, for public authority consultation and public exhibition in accordance with any conditions imposed under the gateway determination;
- (C) Council approve the draft City of Sydney Affordable Housing Program Amendment 2024, shown at Attachment B to the subject report, for public exhibition concurrently with the planning proposal;
- (D) Council seek authority from the Department of Planning, Housing and Infrastructure to exercise its delegation under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the amending Local Environmental Plan; and
- (E) authority be delegated to the Chief Executive Officer to make any variations to Planning Proposal - City of Sydney Affordable Housing Contributions Review and the draft City of Sydney Affordable Housing Program Amendment 2024, to correct any minor errors or inconsistencies, or to ensure consistency with any condition of the gateway determination.

Attachments

- Attachment A.** Planning Proposal - City of Sydney Affordable Housing Contributions Review
- Attachment B.** Draft City of Sydney Affordable Housing Program Amendment 2024
- Attachment C.** Review of Affordable Housing Contribution Rates - Atlas Urban Economics - October 2024
- Attachment D.** Resolution of Council - Increasing Developer Contributions for Affordable Housing - June 2023
- Attachment E.** Resolution of Council - Power to Require Affordable Housing be Built on Site by Developers - February 2024
- Attachment F.** Summary of Consultation with Community Housing Providers

This report responds to Council's resolutions to review the City's affordable housing policies and planning controls

1. In June 2023, Council resolved to review the City's affordable housing (AH) contribution rates and consider what changes could deliver more affordable housing in the local area, such as changes to policies and planning controls. The Council resolution is provided at Attachment D.
2. In February 2024, Council further resolved that the Chief Executive Officer, as a priority, report back on the findings of the City's review and advise Council of options to give the City the ability to require that affordable housing contributions be delivered on site, in appropriate developments. The Council resolution is provided at Attachment E.
3. This report details the outcomes of the review and recommends Council approve the Planning Proposal: City of Sydney Affordable Housing Contributions Review (planning proposal), provided at Attachment A, and draft City of Sydney Affordable Housing Program Amendment 2024 (draft Program), provided at Attachment B, to be referred to the Department of Planning, Housing and Infrastructure (Department) for gateway determination and subsequent public exhibition for public comment.
4. The 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 (Green Square Town Centre LEPs), together with the City of Sydney Affordable Housing Program (Program), provide a framework for 2 separate affordable housing contribution requirements that may apply to development in the local area, including a:
 - (a) rezoning AH contribution (rezoning contribution) that is applied to new defined floor space that is achieved where there is a change to the planning controls, and
 - (b) broad-based local government area wide AH contribution (Local Government Area (LGA) contribution), that is applied to all qualifying development upon approval
5. The purpose of the planning proposal is to amend the Sydney LEP and Green Square Town Centre LEPs and make reference to the updated Program. It proposes key changes to the City's affordable housing contribution requirements, include:
 - (a) simplify the rezoning contribution requirement with a consistent percentage, and enable Council to require a contribution be satisfied through the dedication of built dwellings (in appropriate circumstances), instead of monetary contributions;
 - (b) require the LGA contribution be satisfied by making an equivalent monetary contribution, and for this requirement, remove the option of dedicating built dwellings, and
 - (c) increase the equivalent monetary (dollar) rates in the Program.
6. The intended outcome of the proposed changes (including phasing-in) is to:
 - (a) increase the amount of affordable housing provided in the local area;
 - (b) ensure that contributions are equitable across different parts of the City;

- (c) ensure monetary (dollar) rates are equivalent to the true cost of building and dedicating affordable housing in different value precincts; and
- (d) ensure that contributions are factored into development land price through a phasing-in approach
- (e) improve the efficacy and efficiency of the City's affordable housing requirements.

The City applies affordable housing contribution requirements to development in the local area

7. The City's LGA contribution requirement is set out in the Sydney LEP 2012 and the Green Square Town Centre LEPs. The LEPs require that all qualifying development in the local area makes an affordable housing contribution of:
 - (a) 1% of the non-residential total floor area in the development; and
 - (b) 3% of the residential total floor area in the development.
8. The requirement is applied through a condition of consent on a development approval and if monetised, is payable prior to construction commencement.
9. A full description of the current LGA contribution requirement, as applied at the City of Sydney, is provided in Section 2 of the planning proposal shown at Attachment A.
10. The Program provides the operational and administrative arrangements for the LGA contribution requirements including:
 - (a) the principles by which affordable rental housing is to be provided and managed;
 - (b) an equivalent monetary (dollar) rate a developer may contribute, in lieu of dedicating built affordable housing floor space;
 - (c) examples of how a monetary contribution is to be calculated in different contribution areas;
 - (d) the approach to indexing the equivalent monetary contribution rate and a contribution requirement over time; and
 - (e) how contribution funds must be used.
11. The City also applies a rezoning contribution requirement on sites that secure additional residential development capacity via a rezoning process. This occurs where development standards for height, floor space or land use are increased or changed.

12. The rezoning contribution requirement applies to new residential floor space only and is set out in the Program and shown at Table 1.

Precinct	Rezoning contribution requirement
South	12% residential gross floor space
East	21% residential gross floor space
West	12% residential gross floor space
Central	13% subject to site specific viability testing

Table 1: Current rezoning contribution requirements

13. The rezoning contribution requirement is a 'soft' requirement, that is, it is not currently set out in a local environmental plan, instead being a requirement that is negotiated as part of the rezoning process, allowing for adjustment on a case-by-case basis depending on the context of the proposed rezoning.
14. Once the final rezoning contribution is determined, the requirement is either inserted into the LEP at the same time as the planning controls are changed to increase development capacity; or will be negotiated and documented in a planning agreement where the landowner has made a public benefit offer.
15. Despite the negotiable nature of the rezoning contribution, by expressing it in the Program (that is adopted by Council and referenced in the LEP), it provides notice to the market of the City's clear expectations. This allows developers to adjust what they will pay for development land in the full understanding of what AH contributions will be.

The City's LGA contribution requirement has successfully delivered significant amounts of affordable housing in the local area

16. The City utilises multiple levers to encourage the delivery of affordable housing. An LGA wide contribution requirement came into effect in August 2020. To date the City has collected about \$400 million in contributions, provided about \$31.6 million in discounted land and committed to about \$13 million in grants.
17. As of 30 June 2024, the LGA has 1,447 built affordable housing units in the local area, 556 dwellings in the development pipeline and a further 1,385 in the pre-application stage either State Significant Development (SSD) or Local Development (DA). Over 60% of built dwellings have resulted, in full or in part, from the City's LGA contribution requirement.
18. In addition, the LGA contribution requirement is projected to deliver a further 1,950 affordable dwellings to 2036, noting this estimate will be heavily influenced by other matters outside of the City's control, including, but not limited to:
- the property market - meaning the amount of residential development that occurs. This is highly influenced by market conditions;

- (b) the way land develops, for example if more land is developed for commercial premises, rather than housing, there will be a different contribution rate mix;
 - (c) the more recent availability of funds and concessions from the Federal and State Governments for affordable housing projects;
 - (d) the ability of community housing providers (CHPs) to leverage contribution funds, for example, through equity in a 'capital stack' for new development; and
 - (e) and most importantly, NSW and Federal Government policy directions.
19. Seen through our local government lens, the known built, pipeline, pre-application and projected dwellings equal around 5,338 affordable and diverse dwellings to 2036. This is just under half of the 12,000 affordable housing dwellings needed to achieve the target of 7.5% of all housing in the local government area be affordable housing. If substantial Federal funding is not increased or continued, it may be necessary to extend the target date beyond 2036.

Developers can currently satisfy the LGA contributions and the rezoning contributions by dedicating built dwellings or by making a monetary contribution

20. When a development application is lodged with the City it must set out how the affordable housing contribution will be satisfied. The Sydney LEP and the Green Square Town Centre LEPs currently allow a developer to choose to satisfy an affordable housing contribution by either:
- (a) dedicating built floor space for affordable housing; or
 - (b) by making an 'equivalent' monetary contribution, being a rate determined by the City.
21. To date, in almost all cases, applicants have chosen to satisfy the contribution by making an equivalent monetary contribution. This is because:
- (a) the equivalent monetary contribution (the dollar rate) set out in the Program is now under the equivalent actual cost to the development to build residential floor space, that is, it is cheaper for the development to allocate a monetary contribution rather than build and dedicate affordable housing;
 - (b) making a monetary contribution is considerably less complex. In the alternative, arrangements with a registered CHP(s) to deliver mandated housing need to be made, and enter into legal arrangements for the dedication of dwellings; and
 - (c) it is a strong preference of City West Housing, who has historically been the recipient of the City's affordable housing contributions, to receive monetary contributions to create more affordable housing. This allows them to develop affordable housing specific to the needs of their tenant list. Salt and pepper units in a predominantly market development is not preferred. Rather, the consolidation of affordable housing into a standalone building, or at least serviced by a separate lobby and core, removes significant management complexities and financial liabilities that result from a more dispersed property ownership having a small proportion of the housing in a mixed tenure building.

The City consulted with CHPs to understand the best approach to how contributions might be received (dedication or monetary contribution)

22. The City undertook targeted consultation with our Recommended CHPs identified on the City of Sydney Affordable Housing Contributions Distribution Plan (Distribution Plan), adopted by Council on 11 March 2024. The purpose of the consultation was to understand the best approach to how contributions might be received in future. This included, whether dedicated dwellings are preferred or monetary contributions preferred, as well as the issues arising from receiving dedicated dwellings.
23. The consultation revealed key considerations for and against, including challenges relating to the receipt of completed dwellings delivered by market development. A summary of the City's consultation with Recommended CHPs is provided at Attachment F.
24. To maximise affordable housing outcomes, CHPs have advised that where contribution funds are well leveraged (i.e., by tapping into State and Federal funding), they can be stretched much further to deliver more affordable housing by two or three fold. Moreover, the affordable housing is typically more suitable for their needs. In the long term more appropriate affordable housing will result from CHPs developing their own sites. This is because where housing is developed by a CHP:
 - (a) there are a range of tax incentives available to CHPs, i.e., not subject to the Goods and Services Tax (GST) and other taxes, making delivery of housing cheaper;
 - (b) they can access low-cost finance and quarterly availability payments from Housing Australia;
 - (c) they can apply for funding under the Australian Government's Housing Australia Future Fund Facility (HAFFF);
 - (d) where available, they can pair contribution funds with other grants that may be available from the Federal or State Government or from local government (such as subsidised land sales); and
 - (e) they are not subject to the same return requirements that are required by investors and financiers to achieve project viability.
25. To achieve positive affordable housing outcomes, including financial sustainability, CHPs raised the following key matters:
 - (a) management efficiencies – CHPs advised that the costs and inefficiencies of managing multiple properties scattered throughout various developments, can be considerable, regardless of CHP size. These relate to the additional costs and resourcing associated with managing multiple strata requirements, the practical challenges of physically maintaining properties across a wide geographic area, and the reduction in community support facilities and services that can be provided to tenants. Concentrating efforts where more than a handful of dwellings can be delivered is more efficient; and

- (b) strata costs – it is not unusual for new development in the local area to incorporate on-site facilities for future residents, such as gyms, pools, high end lifts (sometimes multiple) and rooftop amenities, resulting in high strata fees that can absorb rental returns. This can increase where special levies are payable for significant works to the building and/or common property.
 - (c) Where CHPs are required to pay strata fees on dedicated apartments, this could absorb most rental income where the Program limits rents to no more than 30% of household income. If dedicated dwellings are received, CHPs indicated a preference for extracting the dedicated dwellings from future strata costs or to limit higher costs in some way.
26. Key issues also raised by CHPs are the need to influence the design and construction quality of dwellings to ensure long-term suitability, noting key decisions are often made by the developer before a CHP can be involved in the project. A CHP's considerations for design and construction include:
- (a) geographic location – affordable housing should be well located so that tenants can access high frequency public transport, access to services, such as a reasonably priced grocery store, health services and so on, without needing to rely on a private vehicle for everyday needs. While this is a City-wide aspiration for all residential development, it is particularly important for affordable housing, whose tenants are less likely than the general population to have the financial capacity to own a private vehicle. It is also noted that affordable housing developments may also have a higher proportion of tenants who have a disability, increasing the importance of accessible access to public transport options and services;
 - (b) on-site access arrangements – it is common that affordable housing developments have a higher-than-average proportion of tenants who are living with a disability. It is therefore important that affordable housing dwellings are cognisant of access requirements, with particular attention paid to accessibility in situations where lifts are out of service;
 - (c) fit-out – durability and cost of maintenance is the main concern raised by CHPs with regard to the long-term management of dedicated affordable housing dwellings. For example, the durability and cost of the materials used in kitchens and bathrooms, with good quality materials with longevity being preferred, but also materials that are not expensive to replace;
 - (d) flexibility and universal accessibility – CHPs note the importance of maximising flexibility so that a range of different tenants, including those who live with a disability, may live in the dwelling;
 - (e) dwelling size and mix – where possible a mix of one, 2 and 3 bedroom dwellings enables the provider to house a range of households and positions them to be able to meet future housing needs;
 - (f) servicing – while maximum parking may not be a requirement for affordable housing that is well located to transport and services, some parking and servicing is generally required for service vehicles, shared vehicles and for vehicle access for tenants living with a disability;

- (g) design for reduced living cost – ensuring affordable dwellings are designed to minimise costs to future tenants. For example, the installation of fans and maximising opportunities for cross ventilation will reduce the need for tenants to utilise expensive air-conditioning. CHPs also noted avoiding embedded networks and such is important to manage costs to tenants; and
- (h) external appearance – whilst internal fit out needs to be specific to the needs of CHPs and their tenants, the quality of the external appearance of affordable housing dwellings, and the inclusion of visible external spaces such as balconies or courtyards, are generally required to match that of other dwellings in the development. This is to ensure that affordable housing is not visually differentiated as such.

The planning proposal will enable the City to require a contribution to be satisfied in a preferred way

- 27. Informed by the matters raised by CHPs, the planning proposal seeks to amend the Sydney LEP and Green Square Town Centre LEPs to require:
 - (a) for rezoning contributions, the requirement to be satisfied by the dedication of appropriate built dwellings (where Council confirms that this is possible), instead of monetary contributions.
 - (b) for the LGA contribution only (as applied to DAs), the requirement to be satisfied by the payment of monetary contributions, instead of dedication of built dwellings.
- 28. The rationale for requiring monetary contributions for LGA contributions (instead of dedication of built dwellings) includes:
 - (a) the size of the contribution on each DA (3% and 1% of residential and non-residential floor space respectively) is numerous but relatively small compared to a contribution required pursuant to the rezoning contribution (as is the case in overseas jurisdictions). Small numbers of affordable rental units spread across disparate development sites will create financially unsustainable outcomes for CHPs and present management challenges;
 - (b) a monetary contribution can be better leveraged by CHPs to generate a greater number of affordable dwellings in a typical 'capital stack' from different funding sources. The range of tax incentives, low-cost finance and concessional loans available to CHPs can amplify monetary contributions when affordable housing is built by CHPs;
 - (c) housing delivered by CHPs is generally better suited to the needs of their tenants. For example, the electrification and passive design are priorities for CHPs to reduce the living costs of their tenants;
 - (d) housing delivered by another party presents potential long-term financial and practical risks for a CHP, particularly where defects ('snags' in the case of UK s106 housing) are identified post-handover. It also increases risk to developers should dwellings not be accepted at the end of the design and build process, potentially causing delays to the delivery of market housing and adding costs;

- (e) for a DA, conditions of consent for a monetary contribution are quicker and simpler than an exhibited agreement for dedication of dwellings. A monetary contribution suits the DA timeframe focus under the Ministerial Expectations versus a dedication requirement needing significantly more consideration, including:
 - (i) negotiations with the proponent and CHP(s) to refine the design of the development to ensure the resulting housing is appropriate to be used as affordable housing; and
 - (ii) the need for extensive legal expertise and resources to draft an appropriate and enforceable planning agreement and/or conditions of consent; and then to review and execute the necessary legal instruments needed to secure the affordable housing, for example, contract of sale and/or voluntary planning agreement.
29. However, the rationale for requiring dedication of built dwellings for the rezoning contribution (instead of monetary contributions) is as follows:
- (a) rezoning proposals are more likely to be of sufficient scale to deliver financially sustainable numbers of affordable dwellings;
 - (b) the longer timeframe of a planning proposal / rezoning process and higher-level nature of the development at planning proposal stage provides the best opportunity to work through the detailed considerations of obtaining built affordable housing;
 - (c) rezoning proposals are typically supported by planning agreements, which is the preferred approach to delivering on-site affordable housing. Planning agreements provide the opportunity to agree deliverables, timings and expectations for any subsequent development, providing improved certainty for both the developer and receiving CHP on the final delivered outcome; and
 - (d) requiring the dedication of built dwellings in positive circumstances can circumvent the need for CHPs to purchase land for the development of affordable housing. The availability of land can be challenging in the City of Sydney area, where market competition for land is very high (except in the E3 zone). CHPs have made previous submissions noting this issue.

The dedication of dwellings will be required only where the resulting housing is good quality affordable housing

30. To provide certainty for CHPs and developers, the draft Program includes the 'triggers' for where the consent authority may require the dedication of built dwellings where a rezoning contribution applies. The draft Program will also set out 'standards for dedicated affordable housing dwellings' to guide the design and construction quality of affordable housing that is appropriate to the needs of CHPs and their tenants. This will maximise the efficiency of the process by ensuring that dedicated dwellings met appropriate standards.

31. The purpose of the triggers and design standards is to describe the circumstances where the dedication of housing is considered appropriate, that is, where the resulting housing will be appropriate for use as affordable housing. The triggers are where:
 - (a) the development is predominantly for a residential purpose; and
 - (b) the development will (or in the case of a concept development application, may) result in a contribution requirement for more than 600 square metres of gross floor area that can be provided as 8 or more dwellings; and
 - (c) the development is located in Category A or B area of the Sydney LEP 2012 Land Use and Transport Integration Map (if the development is subject to the Sydney LEP 2012); and
 - (d) in the opinion of the consent authority, affordable housing dwellings may reasonably be provided where they could avoid participation in a future strata scheme, if the quarterly costs of the scheme would likely be 'high' and render the management of the property for affordable housing as 'unsustainable'. This could reasonably be achieved where the dwellings to be dedicated could be provided:
 - (i) in a separate stratum in a building in the development, preferably with its own entry lobby and vertical circulation; or
 - (ii) in a separate building in the development; and
 - (e) in the opinion of the consent authority, the 'standards for dedicated affordable housing dwellings', provided at Appendix C of the draft Program, can be reasonably satisfied.
32. While strata fees cannot be known at the time a development application is lodged, strata schemes would likely be 'high' where the development incorporates amenities that are likely to result in high management costs, for example, multiple high end lifts, pool(s), gym(s) and concierge facilities.
33. The long-term management of properties for affordable housing are considered 'unsustainable' where rents will not meet the costs of strata and other cyclical management costs of the dwelling over a notional 40-year ownership period.
34. If the dedication of built dwellings is required, the Program requires consultation with the Recommended CHP, identified in the City's Distribution Plan as a recipient of dedicated affordable housing dwellings.
35. Notwithstanding the criteria set out above, the consent authority may not require the dedication of built dwellings where the Recommended CHP provides written advice that the proposed dwellings are unsuitable for use as affordable housing. In these circumstances a monetary contribution will be required.
36. The draft Program also sets out 'Standards for dedicated affordable housing dwellings' that establish requirements for how dedicated dwellings are to be provided. The standards provide guidance on the following:
 - (a) long-term management requirements
 - (b) long term strata management requirements

- (c) dwelling mix requirements
- (d) parking and servicing requirements
- (e) access requirements
- (f) fixtures and finishes
- (g) design requirements, including external design, design for reduced living costs and design for reduced cyclical management costs.

Dedication of dwellings - requirement in practice

37. Where there is a planning proposal to increase the development capacity of a site/s, a key consideration will be the potential delivery of on-site affordable housing.
38. The rezoning contribution requirement can be set out in an LEP, or in a voluntary planning agreement if there is a site-specific rezoning and public benefit offer that has been initiated by a landowner and/or developer.
39. As noted previously in this report, any requirement for the dedication of dwellings in the development application process has the potential to significantly extend assessment times.
40. Where the rezoning requirement is set out in a planning agreement, the terms of the agreement will be established concurrently with any planning proposal to increase the development capacity of the site. This avoids the need to resolve key issues in the development application process, where assessment timeframes are much more constrained.
41. Therefore, a planning agreement is the preferred pathway to apply a rezoning contribution requirement. However, this is only possible where the landowner and/or developer has made an appropriate public benefit offer and agrees to enter into the agreement. It is also not possible where the City itself has initiated a planning proposal to increase the development capacity of land owned by multiple owners, for example in Pymont. In these cases, the rezoning contribution must be set out in an LEP rather than planning agreements.
42. Notwithstanding the above, it is noted that in the context of a rezoning contribution requirement, when the intention to lodge a development application in accordance with new planning controls is understood well in advance, matters can be resolved earlier and the impact on assessment times is expected to be manageable. Planning agreements can be entered into at this stage of the process if all parties agree.
43. Where the rezoning requirement is in an LEP, the consent authority's decision about whether a development will dedicate dwellings, or make a monetary contribution, will be made in the context of a development application. Ultimately the contribution requirement may need to be applied as a condition of consent. The development application process is shown at Figure 1.

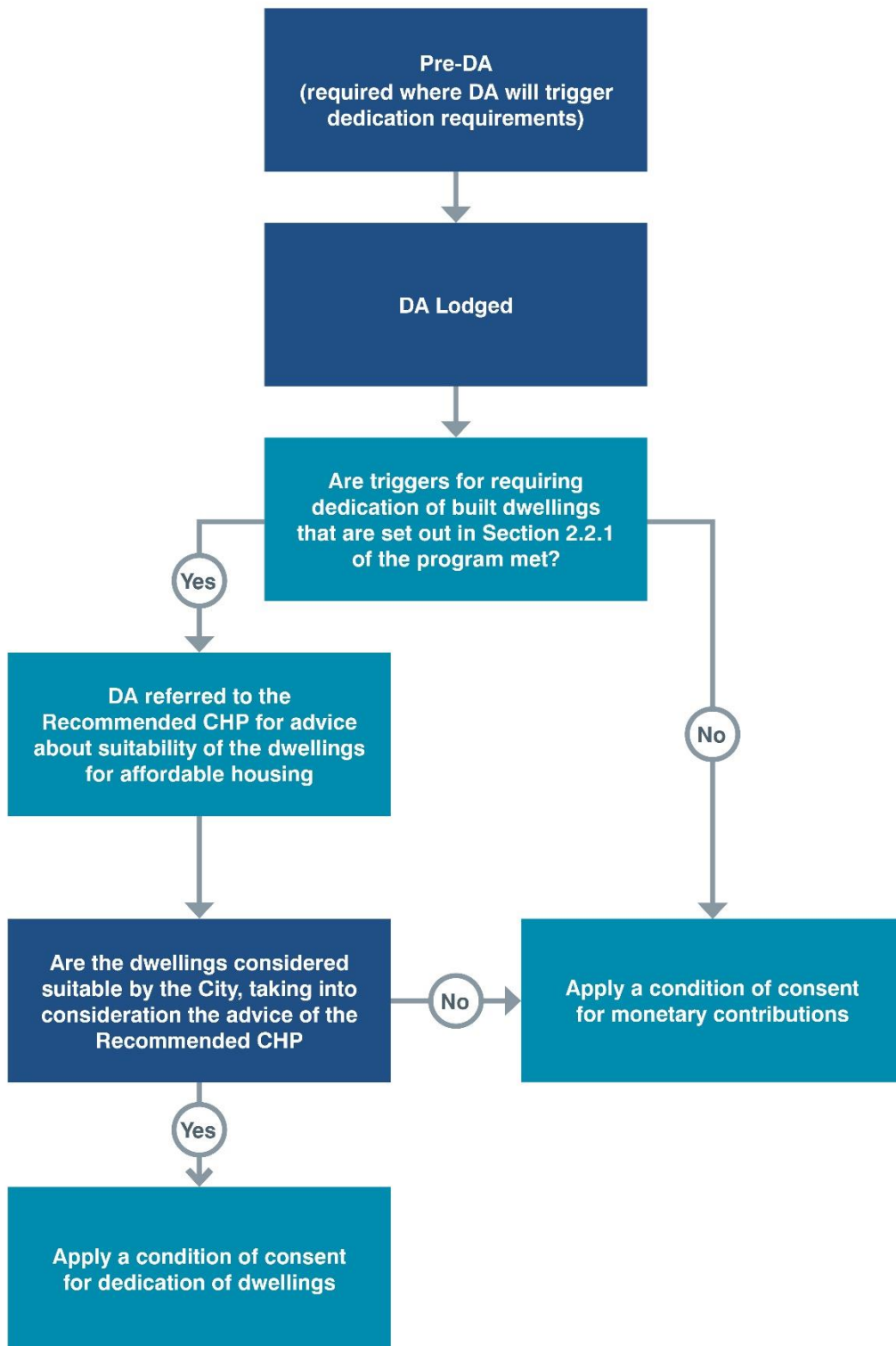


Figure 1: Indicative development application process

44. Where the development meets the 'triggers' for dedication of dwellings, the application will be referred to the Recommended CHPs on the City's Distribution Plan for any written advice about the suitability of the proposed housing for dedication for affordable housing.
45. The Executive Director City Planning, Development and Transport (Planning Director) will consider the advice of the Recommended CHPs and where the proposed dwellings are considered suitable, will confirm that the proponent will be required to satisfy their contribution by dedicating built dwellings, and a recommendation to Council and the CSPC will be made at the Planning Proposal stage.

The City commissioned research to inform a review of its affordable housing contribution schemes

46. The City commissioned Atlas Urban Economics to undertake an independent review of the affordable housing contribution rates (Rates Review). The Rates Review, provided at Attachment C, considers:
 - (a) if the various affordable housing contribution rates (development, rezoning, monetary) are appropriate;
 - (b) if higher affordable housing contribution rates are feasible; and
 - (c) modelling of the implications that result from the implementation of alternate affordable housing contribution rates.
47. The Rates Review:
 - (a) examines the total cost of procuring / delivering on-site housing (land, construction, forgone opportunity of selling a market apartments) against the current dollar rate in the Program;
 - (b) tests alternate affordable housing contribution rates and their impact on development feasibility; and
 - (c) considers if higher affordable housing contribution rates are achievable or would result in adverse impact to development supply.

Rates Review - findings

48. The Rates Review concludes that the City of Sydney is made up of several distinct development sub-markets, generally being the Central, East, West and South precincts shown in Figure 2.

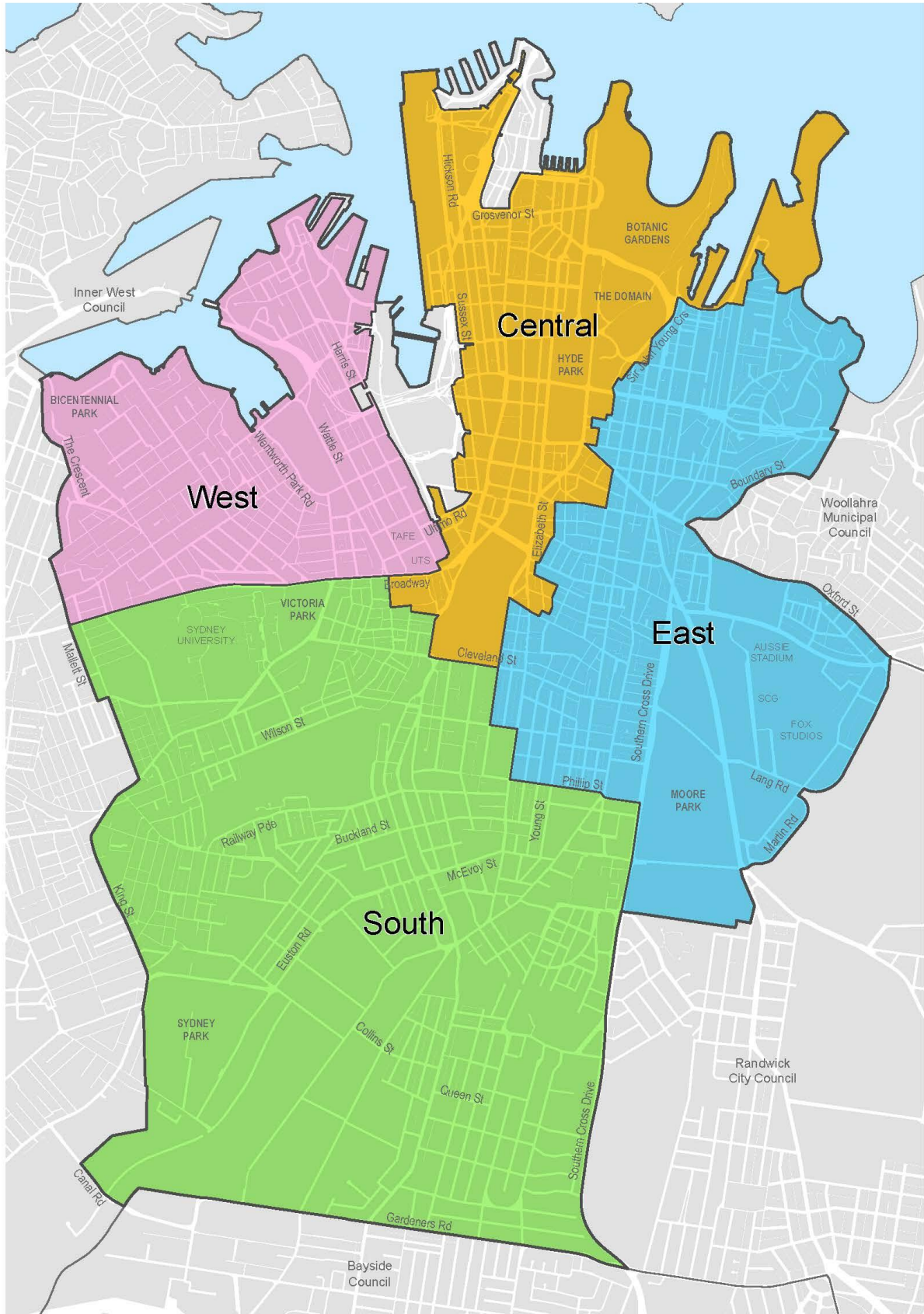


Figure 2: Affordable housing contribution precincts

49. Each precinct is subject to its own planning opportunities, market drivers, development standards and underlying land values. Together, these influence the highest and best use of a development site, the cost of delivering development, how much development will sell for, and what type of development will occur. For example, the East precinct currently lends itself to the delivery of a premium housing product.
50. These sub-markets have implications for the current approach to rate-setting, notably:
- (a) the current monetary (dollar) rate, based on the Sydney local area median strata unit price, only enables the purchase of median priced (older) residential stock in the local area and not new residential units. This difficulty is now the greatest in the East and Central precincts where the current rate would be equivalent to only a fraction of new residential prices;
 - (b) the current monetary (dollar) rate is now not genuinely equivalent to the cost of delivering a square metre of floor space, limiting the funds collected by the City's affordable housing scheme and the ability of CHPs to deliver dwellings; and
 - (c) applying a uniform monetary rate across the local area, places a disproportionate burden on development in different precincts. 'Lower value' areas in the West and South precincts contribute a significantly greater proportion of revenue compared with 'higher value' areas in the Central and East precincts.
51. The Rates Review recommends that the City consider precinct dollar rates that would be equivalent to the actual cost to a developer of building and dedicating a square metre of floor space for affordable housing across the different precincts of the local area.

Rates Review - recommendations

52. The Rates Review recommends:
- (a) no change to the LGA wide development contribution requirement in the City's local environmental plans, that is, the requirement for contribution of 1% of non-residential and 3% of residential floor space should remain unchanged;
 - (b) a new approach to the monetary (dollar) rate, being a precinct-based dollar rate, that reflects the value of new residential units in different parts of the local area; and
 - (c) the new precinct-based dollar rates be phased-in to allow for the market to adjust and be factored into the land purchase price.

53. The precinct-based monetary (dollar) rates (per square metre of gross floor area) recommended by the Rates Review are shown in Table 2. The current rate is equivalent to \$12,293.84 per square metre of Gross Floor Area (GFA).

Affordable housing contribution precinct	Dollar rates at full implementation
South	\$12,500
East	\$20,000
West	\$15,000
Central	\$17,500

Table 2: Recommended dollar rates (per square metre of gross floor area)

54. While rates are proposed to increase in all precincts, the Rates Review finds the dollar rates will be tolerated in all precincts when phased in over a period of 4 years from the date of adoption of the Program. The testing examines the 'worst case', where land has already been purchased for development and the price paid would not have taken into account the new contributions in preparing their development feasibilities. It shows that a 50% introduction of the new precinct rates has a relatively minor impact on feasibility, and in subsequent years natural market growth (sale price rises) helps to offset any impact.
55. The Rates Review notes that if higher contributions were to be introduced without a phase in period, they would have an adverse impact on the feasibility of current developments. This is because of a number of post Covid headwinds make it hard for development to be feasible. This is a result of the cumulative influence of high existing-use land values (and therefore the cost to consolidate a development site), persistently high construction costs, and relatively soft end sale values of completed housing due to elevated interest rates. As the economic environment stabilises over time, the phased introduction of increased dollar rates would give development markets the opportunity to be forewarned and adjust.
56. The phase-in period is critical so as not to undermine the delivery of the City's housing pipeline and future housing supply. Should market housing become 'unviable', contribution requirements cannot be made and affordable housing cannot be built (in addition to there being no increase in available market housing).

The planning proposal and draft Program phases in an increased monetary (dollar) rate over a period of 4 years from the final approval of the Program by Council

57. Following consideration of the recommendations of the Rates Review the planning proposal and draft Program propose precinct-based dollar rates to be phased in over a period of four years from the final approval of the Program by Council. The proposed rates and phase-in strategy are shown at Table 3.
58. The phase-in strategy will result in increases in contributions (outside of the standard indexation of rates) 2 years following final approval of the Program by Council (50% implementation), with full implementation 4 years from final approval.

Affordable housing contribution precinct	From immediate approval of the Program by Council	2 years from approval of the Program by Council	4 years from approval of the Program by Council
South	\$12,293.84	\$12,396.92	\$12,500.00
East	\$12,293.84	\$16,146.92	\$20,000.00
West	\$12,293.84	\$13,646.92	\$15,000.00
Central	\$12,293.84	\$14,896.92	\$17,500.00

Table 3: Proposed phase in of 2024 indexed dollar rates (per square metre of gross floor area)

Concessions for build-to-rent and co-living housing in Central Sydney

59. For development in Central Sydney, that is entirely for the purpose of build-to-rent housing or co-living housing, it is proposed the dollar rate remains unchanged at \$12,293.84 per square metre (current dollar rate adjusted for Gross Floor Area), as indexed, until the date of the full implementation of the rates as set out in Table 3. From that time the concession rate for these housing types will end.
60. This delay supports the delivery of these specific housing types in Central Sydney in the short term to address the post-pandemic rental housing shortage. This aligns with the City's recent planning proposal to facilitate these development types.

Indexation of dollar rates

61. The monetary (dollar) rates will be indexed annually to ensure they keep pace with the cost of providing housing. The method of indexing is set out in the current Program and is not proposed for amendment.

Total Floor Area to Gross Floor Area

62. The current uniform dollar rate in the Program is technically \$11,176.22 per square metre of Total Floor Area (TFA). TFA is different to the more commonly used metric of Gross Floor Area (GFA). The main difference is that TFA includes balconies and circulation spaces that are otherwise excluded from GFA. Generally, the calculation of TFA in a residential development is at least 10% more than GFA.
63. The Rates Review recommends transitioning away from TFA to GFA, to improve the efficient operation of the contribution scheme. This is because:
- it is easier for the market to understand (given that apartments are generally traded on \$/sqm internal rates). Internal rates could be converted to \$/sqm GFA by adopting a generic efficiency factor; and
 - it would simplify the development assessment process, as additional plans that detail the calculation of TFA will not be required.
64. The proposed dollar rates are adjusted to per square metre of GFA. It is noted that the dollar rate shown in Table 3 (being \$12,293) reflects the current dollar rate (for TFA), although this has been conservatively adjusted up by 10% for GFA.

Transitional arrangements

65. Development applications lodged prior to the commencement of the LEPs that implement the planning proposal will remain subject to the current affordable housing provisions in the Sydney LEP 2012 and the Green Square Town Centre LEPs. This means the contribution requirement will continue to be based on the current dollar rates (that are published on the City's website) and applied to TFA.

Examples of the impact of changed dollar rates on the LGA wide contribution requirement

66. The proposed dollar rates will result in an overall increase in the payable contributions for the LGA wide contribution requirement in the medium term, allowing for the phased introduction.
67. Some examples of how the proposed dollar rates will increase the payable monetary (dollar) contribution of the LGA contribution requirement are provided at Figure 3.

<p>Example 1 – West precinct</p> <p>Today</p> <p>A 10,000sqm residential development in the West precinct of about 133 apartments will make an affordable housing contribution of \$3.69m OR 300sqm built dwellings (4 dwellings).</p> <p>From full implementation</p> <p>The same development will make an affordable housing contribution of \$4.5m (in today's dollars).</p> <p>Example 2 – South precinct</p> <p>Today</p> <p>A 50,000sqm mixed use development (5,000sqm non-residential floor space / 45,00sqm of residential floor space) in the South precinct of about 600 apartments will make an affordable housing contribution of \$17.2m OR 1,400sqm built dwellings (19 dwellings).</p> <p>From full implementation</p> <p>The same development will make an affordable housing contribution of \$17.5m (in today's dollars).</p> <p>Example 3 – Central precinct</p> <p>Today</p> <p>A 75,000sqm commercial development in Central precinct will make an affordable housing contribution of \$9.2m.</p> <p>From full implementation</p> <p>The same development will make an affordable housing contribution of \$13.13m (in today's dollars).</p> <p>Example 4 – East precinct</p> <p>Today</p> <p>A 1,000sqm residential development of about 13 apartments will make an affordable housing contribution of \$369k OR 30sqm built dwellings (that must be satisfied by paying a contribution because that resulting apartment would not meet the minimum dwelling size).</p> <p>From full implementation</p> <p>The same development will make an affordable housing contribution of \$600k (in today's dollars).</p>

Figure 3: Impact of changed dollar rates on the LGA wide contribution requirement - examples

Examples of the impact of changed dollar rates on the rezoning contribution requirement

68. While in many cases the rezoning contribution will result in a requirement for on-site delivery of affordable housing, there will be some circumstances where that is not possible and/or desirable. For example, where the development is purely for non-residential purposes.
69. An example of how the proposed monetary (dollar) rates will increase the payable monetary contribution of the rezoning contribution requirement is provided at Figure 4.

Example**Today**

A site in Central precinct is currently subject to planning controls that allow 70,000sqm of non-residential floor space.

A rezoning is proposed to allow an additional 40,000sqm of non-residential floor space. No residential development proposed.

Based on current approach, only the LGA wide contribution would be applied to all GFA when the development application is lodged. No rezoning contribution requirement would be applied because the new floor space is for non-residential purposes only.

The current requirement is therefore \$13.5M (in today's dollars), calculated as $(110,000\text{sqm} * 1\% * \$12,293)$

From full implementation of dollar rates

The proposed change will apply the LGA wide contribution to the existing floor space and a rezoning contribution of 2% to the new floor space.

The same rezoning will therefore be required to make an affordable housing contribution of \$26.3m (in today's dollars).

Figure 4: Impact of changed dollar rates on the rezoning contribution requirement - example

The Rates Review found the rezoning contribution requirement should be simplified to ensure an appropriate amount of affordable housing results from increased development capacity

70. The Rates Review examined the suitability of the City's current rezoning contribution requirement, that is, the approach the City takes to seeking additional affordable housing contributions when a site is rezoned to create more development capacity.
71. The Rates Review tested a series of rezoning scenarios, applying assumed development margins and projected internal rates of return, to determine the tolerance to increased rezoning contribution requirements in the different precincts. The testing factored in the increased dollar rates recommended for each precinct (phased in over a period of time), assuming the future contribution requirement might be satisfied by making an equivalent monetary contribution.

72. The Rates Review recommends simplifying the multiple contribution requirements in the Program to a uniform 20% (applied to additional residential floor space only) for all precincts. It finds a uniform contribution requirement, differentiated by a precinct dollar rate to reflect the pricing hierarchy across the City, will achieve a more equitable outcome across the LGA. That is, regardless of location, a rezoning contribution requirement would make the same proportion (%) of affordable housing contributions per additional GFA enabled by the rezoning.
73. The Rates Review also identifies an opportunity for non-residential floor space in Central Sydney to contribute to affordable housing and recommends the introduction of a 2% rezoning contribution requirement to apply to non-residential uplift in the Central precinct.
74. To test the impacts of the proposed rezoning contribution requirement on development viability, the Rates Review tests a worst-case scenario, where land is purchased at a price not reflecting the increase contribution requirement. It finds that in most circumstances development remains viable under the proposed rezoning contribution requirements, providing that the dollar rates (as provided in Table 3) are phased in over time.
75. A gradual implementation, achieved by phasing-in the monetary (dollar) rates, will ensure that land values (and landowner expectations) have time to adjust. This is important to allow for planning decisions to be made in full understanding of requirements. If developers pay a price for land that is reflective of the various contribution obligations, the Rates Review demonstrates that development can tolerate the alternate rates.

The draft Program implements new rezoning contribution requirements

76. In direct response to the recommendations of the Rates Review, the draft Program proposes changes to the rezoning contribution requirement in the draft Program, including:
 - (a) a standardised contribution requirement of 20% across all precincts (shown at Table 4), given that the dollar rate is being differentiated across the local area. This approach also ensures an equal proportion of floor space is dedicated for every square metre of uplift, regardless of the location of the planning proposal; and
 - (b) the introduction of a 2% contribution requirement that would apply to non-residential uplift in the Central precinct only.
77. The proposed rezoning contribution requirements would come into effect upon adoption of the Program, noting the dollar rates will be phased-in over four years as recommended.
78. As detailed earlier in this report, it will be the City's first preference that the rezoning contribution requirement be satisfied via the dedication of built dwellings, subject to triggers and benchmarks set out in the draft Program. If these criteria are not met, or the receiving CHP provides written advice that the dwellings will be otherwise unsuitable, an equivalent monetary contribution will be required, calculated using the phased-in dollar rates.

79. It is noted that a planning proposal uplift rate has not previously been applied to non-residential development. It is now recommended in the Central precinct alone because of the substantial demand for housing for key workers created by increased employment floor space in Central Sydney.
80. The introduction of a contribution requirement for non-residential development remains consistent with the requirements set out in the Act relating to where a contribution requirement can be applied.

The draft Program makes several other housekeeping amendments to clarify or simplify current processes

81. Amendment to the Program is needed to update current requirements and include new requirements so it aligns with the planning proposal. These amendments are set out in the draft Program, shown at Attachment B, and in the main are discussed above in this report.
82. Notwithstanding this, a number of other housekeeping amendments are proposed in the draft Program to clarify current processes or simplify readability. These amendments, together with an explanation of why they are being made, are set out in Section 5.2 of the planning proposal.

The planning proposal and draft Program will increase the amount of affordable housing expected to be provided through the LGA wide contribution to 2036

83. The current projection for the LGA contribution is that it will result in an additional 1,950 dwellings. This is in addition to the dwellings that have already been built, are in the development pipeline and are in the pre-development application planning stages.
84. The projection is a straightforward model and does not factor in any assumptions about external impacts on affordable housing supply, such as market factors, development costs, CHP performance, leveraging of contributions and other subsidies that may or may not be available from government. It assumes that the requirement in the LEP, that a proportion of floor space be dedicated for affordable housing, is actually dedicated as affordable housing.
85. However, in practice, contribution requirements are almost always satisfied by monetary contributions, rather than built dwellings being dedicated.
86. As described earlier in this report, where monetary contributions are received, there is much more scope by CHPs to leverage contributions to provide even greater amounts of affordable housing through increased funding.
87. How successfully the funds can be leveraged will vary from project to project, from CHP to CHP (depending on their current balance sheet and their ability to leverage funds), and on the types of other funding and concessions that may be available from federal and state government at any given point in time. Generally, based on the current availability of funding, it is reasonable that contribution funds might be between 2 – 3 or even 4 fold the value of the monetary contribution.

88. Assuming a conservative leveraging factor of 2, and that the leveraging factor remains constant over time, the current projection of 1,950 could be as much as 4,000 dwellings, noting that this is in fact highly dependent on a range of other factors.
89. The planning proposal that is the subject of this report will increase the contribution funds that are being received by CHPs, and it follows that this will result in an increased capacity to provide affordable housing if Housing Australia remains steady.
90. Based on forecasts about how much in monetary contributions will be collected from the different precincts to 2036, and then applying the new contribution rate to those areas (as they are phased in), it is estimated an extra \$320 million in contributions could be collected – about a 20% increase on what we are likely to receive under current rates.
91. Assuming a delivery cost of \$1 million per dwelling, an estimated further 320 dwellings in addition to current projected dwellings could be achieved. Where a conservative leveraging factor of 2 is applied, the proposed change to the dollar rates could deliver an estimated further 640 dwellings in addition to current projected dwellings.
92. It is worth noting there are many variables that will impact on this scenarios being achieved. For example, if the availability of subsidies goes up, and the market improves, and more complementary policies are adopted by other levels of government, the estimate could increase. However, if the current poor market conditions persist, government subsidies dry up, and CHPs have limited ability to access financing, then the estimate could decrease.
93. There is no projection for how many affordable dwellings are expected to result from the rezoning contribution. This is because site-specific rezonings are little known and have been rarely approved by Council in the past.
94. Few rezonings for residential development have occurred in the last 10 years, however, if more sites were rezoned (or its equivalent) for residential development in future (as is the case overseas), and the affordable housing component is built and dedicated, about 25 dwellings per 10,000 square metres of 'new' floor space could be provided.

Affordable housing contributions must be collected and used in accordance with the Act

95. Affordable housing contributions are enabled by Section 7.32 of the Environmental Planning and Assessment Act 1979 (Act) which sets out the circumstances under which an affordable housing contribution can be applied in a condition of consent.
96. The Act says a condition of consent must be applied in accordance with a local environmental plan and an adopted 'scheme' for contributions. In the City of Sydney, the 'scheme' is contained in the City of Sydney Affordable Housing Program (current Program).
97. The Act also requires compliance with the State Environmental Planning Policy (Housing) 2021 (Housing SEPP), that sets out further requirements about how affordable housing that results from Section 7.32 of the Act must be used. These requirements include, but are not limited to:

- (a) affordable housing is rented to appropriately qualified tenants, being very-low, low- and moderate-income households, and rented at an appropriate rate of gross household income; and
 - (b) buildings provided for affordable housing must be managed to maintain their continued use for affordable housing, that is, affordable housing must be in perpetuity, or at least dwellings cannot be sold without otherwise being replaced elsewhere in the local area through agreement.
98. The City bears the responsibility of ensuring affordable housing contributions are being used in accordance with legislative requirements. This includes ensuring appropriate regulatory and contractual arrangements are in place to manage and monitor affordable housing resulting from the City's contribution scheme over time.
99. The current Program requires affordable housing contributions made pursuant to the Act be distributed to CHPs in accordance with any Distribution Plan adopted by Council.
100. The City of Sydney Affordable Housing Contribution Distribution Plan, adopted by Council on 11 March 2024, came into effect on 1 July 2024. The City and CHPs listed on the plan (being City West Housing, St. George Community Housing and Bridge Housing) have entered into funding agreements that give effect to the Distribution Plan. The agreements provide for the flow of monetary contributions to all three recipient CHPs, with preferential treatment of monetary contributions in favour of City West Housing initially, to assist in the delivery of their City LGA development pipeline, and dedicated dwellings going exclusively to St. George Community Housing and Bridge Housing. The funding agreements also detail:
- (a) the way in which contributions can be used, being in accordance with legislative requirements and the principles and requirements of the Program; and
 - (b) reporting and monitoring requirements for the resulting affordable housing.
101. The planning proposal and draft Program are consistent with the requirements of the Act and Housing SEPP and make no change to the distribution of affordable housing contributions.

The planning proposal and draft Program is consistent with Sustainable Sydney 2030-2050 Continuing the Vision, the Region Plan and the District Plan

102. 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 planning proposal and draft Program is aligned with the strategic directions and objectives.
103. The planning proposal and draft Program 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.

The planning proposal and draft Program will be publicly exhibited

104. If approved, the planning proposal and draft Program will go on public exhibition. The minimum public exhibition process for the planning proposal will be determined by the gateway determination, though would be at least 28 days. It is proposed that the public exhibition of the draft Program will run concurrently. The consultation will be in accordance with the requirements of:
- (a) the gateway determination issued by the Department of Planning, Housing and Infrastructure under section 3.34 of the Act;
 - (b) the Environmental Planning and Assessment Regulation 2000; and
 - (c) the City of Sydney Community Participation Plan 2019.
105. The planning proposal and draft Program will be publicly exhibited online on the City of Sydney website in accordance with the Environmental Planning and Assessment Regulation 2000.

GRAHAM JAHN AM

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