

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 18 July 2016

**PE8 – Review of Council's Developer Contributions Plan 2011**

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TRIM 8373

**EXECUTIVE SUMMARY**

- This report seeks a resolution to review Council's Developer Contributions Plan 2011 (Section 94 Plan).
- This report also provides an opportunity for Council to consider its application of the Developer Contributions Plan 2011 (Section 94A Plan) in relation to redevelopment of land affected by the recent storm event.
- It is recommended that:
  - the review be limited to an update of the Works Schedule, costings, contribution charges and other administrative changes;
  - preparation of the 2017/2018 Operational Plan detail a funding bid to undertake a more detailed review of Council's Developer Contribution Plan following the preparation of South Western District Plan, finalisation of the Greater Macarthur Land Use and Infrastructure Strategy and adoption of Council's Growth Management Strategy.

**REPORT**

Wollondilly Development Contributions Plan 2011 commenced in November 2011.

The internal audit committee has systematically been reviewing Council's procedures and operations. Council's process for managing its developer contribution system was audited in 2015. Most of the actions arising from this audit have been completed.

The Internal Audit report recommends that Council review its Developer Contributions Plan as a high priority. The Audit raised concerns that the Development Contributions Plan 2011 is beginning to lose its currency in relation to its identification of infrastructure requirements, and that the Plan may not be securing sufficient revenue to fund the infrastructure required by the growing population of the Wollondilly LGA. This comment needs to be understood in the context that many contributions under the plan have already reached the \$20,000 cap imposed by the State Government.

The Plan has not been reviewed since 2011. Many of the works included in the work schedule were transferred from the previous Section 94 Plan adopted in 2005. This highlights the need for a review of the Plan, and particularly the Works schedule.

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Notwithstanding the underlying need for the review, it is not proposed to undertake a comprehensive review at this time given the degree of uncertainty surrounding the high level strategic planning work currently underway. This strategic work includes:

- The recent formation of the Greater Sydney Commission responsible for preparation of District Plans. These District Plans have the potential to affect the infrastructure that will be included in any new contributions plan and the location of urban development. It is expected that draft district plans will be available in November 2016.
- The work being done by the Department of Planning and Environment on the Greater Macarthur Growth Area and particularly the Land Use and Infrastructure Strategy for the Wilton Priority Precinct.
- Uncertainty regarding Council's Growth Management Strategy (GMS). Council's GMS identifies the likely housing demand in the towns and villages within Wollondilly. The Draft GMS 2014 is with the Department of Planning waiting endorsement for exhibition. Until the Draft GMS 2014 is adopted, the future growth potential within the LGA, and the infrastructure required to support growth is unclear.

Given this context, there is clearly a level of strategic uncertainty regarding the level and timing of growth that will occur in Wollondilly, and hence in predicting future infrastructure requirements.

It is clear however that growth will inevitably occur and that given the length of time since the Section 94 Plan and its Works Schedule has been reviewed, it is appropriate that a review be undertaken as a means of minimising the risks identified by the Audit Report. It is proposed that the review focus particularly on the following:

- Ensuring that the works included in the Works Schedule are current and as far as possible reflect the outcome of the most recent population projections and Needs Studies. In particular the findings of the Recreational Needs Study and Traffic Study both prepared in 2015 be included. The Works Schedule should also be reviewed to delete any works that have been completed or which are no longer considered necessary.
- Ensure that the cost of providing the facilities is based on most recent cost assessments which is a direct recommendation of the audit into the developer contributions process. In this regard the cost assessments prepared by IPART will be used as a basis for preparing the costs for the works to be included in the Works Schedule.

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- Review the contribution rates included in the Plan. This will include a review both of the shire-wide and local contributions based on the works included in the revised Works Schedule.
- Ensuring that the Operative Provisions of the Plan are up to date and accurate and prepared with appropriate legal advice, and that they reflect current guidelines from the Department. This will help ensure that the Plan is robust and more able to withstand any legal challenges.
- Clarifying what is meant by the terms minor and major development. This is particularly relevant as the plan identifies that Council prefers that major developments will need to provide their own local parkland but does not define what constitutes major development. An initial investigation of this issue suggests that a development with a capacity of more than 67 lots/dwellings will need to provide its own local parkland. This is based upon the recognised threshold of 2.3ha of open space per 1000 head of population.
- Updating definitions in the plan to reflect the current land use definitions used in Wollondilly Local Environmental Plan, 2011 (which have adjusted over time due to changes made by the State).

The outcome of this review will be a new Plan with a revised Works Schedule and a revised contribution rate. In many cases the contribution rate will not alter, already being at the \$20,000 cap, however the allocation of contributions to different projects will be altered. Whilst it would be preferable to have a resolution of the bigger strategic picture and undertake a more comprehensive review, the limited review as proposed means Council will have a more up to date Section 94 Plan reflective of current infrastructure needs.

The review is expected to take 3 months, after which a Draft Plan will be reported to Council prior to exhibition.

It is noted that non-residential development attracts a development contribution where it is over the thresholds described in the contributions plan. In some cases buildings affected by the recent storm event in the Picton commercial district may need to go through a development application process. Where a DA is required and the works are in excess of \$100,000 then these would ordinarily attract a section 94A contribution under the plan. Such contribution is based on there being an increased demand for the infrastructure identified in the plan. In the case of rebuilding, there is a reduced nexus between the works and additional infrastructure demands. Council may want to give consideration to waiving the required section 94A contribution.

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**FINANCIAL IMPLICATIONS**

The direct financial implications in carrying out the review will be minimal as it is intended to be done in house. At this stage it is not proposed to commission any further studies or outside consultancies. The related work may however impact on the delivery times of some other projects.

There may be some positive financial implications for Council as the review may recommend that a higher section 94 contribution can be levied in some situations where contributions have not reached the cap imposed by State Government. This will be dependent upon the works to be included in the Plan. There is a possibility that the Section 94 contribution will be lower than the current rate in some circumstances. However, whether it is higher or lower, it will be appropriate to fund the infrastructure that is identified in the Plan.

Should Council seek to undertake a full review of the contributions plan at this time then it would be necessary to allocate funds to this project. No allocation has been made in the 2016/2017 budget. The estimated cost of a full review of the contributions plan is \$200,000. This would need to be borne by Council up front however would be re-imbursed through the contributions paid over time.

**ATTACHMENTS**

Nil

**RECOMMENDATION**

1. That Council endorse a limited review of Council's Developer Contributions Plan, focussing on the Works Schedule Plan and other changes as identified in this report.
2. That preparation of the 2017/2018 Operational Plan detail a funding bid to undertake a more detailed review of Council's Developer Contribution Plan following the preparation of South Western District Plan, finalisation of the Greater Macarthur Land Use and Infrastructure Strategy and adoption of Council's Growth Management Strategy.