

Talking Notes for IPC meeting with Council 19.9.18

These notes are provided to the Independent Planning Commission (IPC) in response to the matters raised by the Department in its 'Gateway Review- Justification Assessment' report for the Kingsford and Kensington Planning Proposal. Whilst Council originally requested deletion or amendment of six conditions imposed by the Department on the Gateway Determination, all but one matter is unresolved: condition 1(c) – Community Infrastructure. The Department also queries the scenarios that were tested for the proposed densities in the town centres and this is also addressed under condition 1 (b) – Opportunity Sites.

Overview of Planning Proposal

It is important to state at the outset that the K2K Strategy and subsequent Planning Proposal has involved extensive resources including an international urban design competition between June and October 2016 and 9 consultancies including urban design, land economics, traffic, transport and heritage. The aim of the competition was to identify innovative ideas and a vision to enhance the liveability, sustainability and economic vitality of Kensington and Kingsford town centres. The competition was endorsed by the AIA and has been recognised in winning 3 industry awards.

Condition 1 (c) - Community Infrastructure Clause

Council acknowledges that the Department has raised points that need to be clarified in the Planning Proposal to enable the clause to be more clearly understood and operate satisfactorily. More detailed responses to the matters raised by the Department are included in Attachment 1.

Background:

- The proposed Community Infrastructure Contributions (CIC) scheme is intended to apply to all land within the Kingsford and Kensington Town centres (located within the B2 Local Centre Zone).
- Council considers and reaffirms that a CIC or similar clause/approach is necessary in order to achieve public benefits envisaged under the Planning Strategy. Council's Strategy aligns with the Greater Sydney Commission's Eastern District Plan which encourages a place-based approach in delivering liveability outcomes.
- The range of benefits in the Strategy have been informed by the ideas contained in the K2K Urban Design Competition and community engagement which guided the overarching vision for the Centres.
- Council has received independent expert planning advice that the proposed scheme is legitimate and has been working effectively in the adjoining LGA (Green Square).
- The existing S.94A system which is capped at 1% of construction value cannot provide the full range of public benefits (Council has requested the Minister's support for a S.94A increase to 3%).
- The proposed CIC scheme for the two town centres is not a traditional/ nexus based s94 plan contributions scheme. The proposed scheme falls under s93F of the Act and there is no legislative requirement to establish apportionment - which is required for s94 plans.

- The proposed CIC clause in Attachment C of the Planning Proposal will enable the achievement of the maximum building heights and FSRs (as outlined in draft 6.14 (4)).
- To address the Department's concern regarding the achievement of additional building height, Council suggests that proposed cl 6.14 be modified to make reference to an alternative building height map. This would be similar to the existing cl.4.3A – *Exceptions to height of buildings in Matraville and Kensington* in RLEP 2012. The clause would clarify that alternative building heights would be permissible within Kingsford and Kensington town centres if a contribution towards community infrastructure is offered in accordance with the proposed clause and guidelines. This clause provides a precedent to the operation of our proposed cl.6.14 and clarification in regard to the associated mapping.
- Council has been seeking the Department's assistance to resolve implementation issues and finalise a set of guidelines (Attachment 2) that can be placed on public exhibition at the same time as the Planning Proposal.

Is the CIC legal?

- Council's legal advice confirms that there is legal power under the Act to include a clause in the LEP along the lines suggested in draft Clause 6.14. Council acknowledges that the points raised by the Department need to be clarified to enable the proposed CIC mechanism to operate effectively and satisfactorily. The DPE report refers to a breach of s.7.7 of the Act and raises concern that proposed clause 6.14 mandates a proponent to enter into a VPA in order to achieve the maximum height.

How the CIC will operate?

- The CIC scheme will operate via clauses and map in the RLEP 2012 and a voluntary planning agreement approach set out in new draft guidelines and a new draft section within the Randwick DCP, which will detail the type and location of community infrastructure needed in the town centres to support growth in the two town centres.
- Under S.7.4 (previously s93F Act), 'a planning agreement is a voluntary agreement' as such there is no compulsory requirement for a proponent to enter into an agreement. It provides the developer with an option to achieve additional height by contributions to community infrastructure.
- The proposed CIC scheme meets the fundamental principles of the Secretary's revised draft Practice Note for Planning Agreements and key considerations for strategic infrastructure planning agreements and strategic infrastructure planning as outlined on page 14 of the revised draft practice notes: <http://www.planning.nsw.gov.au/~media/Files/DPE/Practice-notes/vpa-draft-practice-note-2016-11.ashx>
- Legal advice obtained by Council supports the CIC scheme as it provides a tangible policy in an open and transparent way.
- Council's draft supporting guidelines (attached) clarify how the CIC will operate including how the contribution is to be calculated and relationship to the local planning framework. Council intends to prepare a new section within the RDCP which will detail the type and location of community infrastructure needed in the town centres to support the growth and function of the area.
- Funds collected will be used to fund community infrastructure within that town centre area in accordance with the supporting draft guidelines and draft DCP section on Kensington and Kingsford town centres.

How was the rate determined?

- For the purposes of the Community Infrastructure Contribution, a dollar per square metre rate of \$475/sqm is applied to the residential uplift floor space only.
- The total dollar value of \$475 was recommended by our consultants (Hill PDA) as this rate had been market tested (i.e. in that it had been in operation in Green Square since 2012), it demonstrated that it could be afforded; and it generated the total monetary contribution required to fund the Council's community infrastructure estimate.
- HillPDA calculated this rate by also testing the viability of four identified sites within the town centres. Of the four identified sites, three were viable at a rate of \$475/sqm. Based on these results, the total dollar of \$475/sqm was adopted, as this rate has demonstrated that development is viable, allowing development to reasonably occur in the Study Area.
- In accordance with the Secretary's revised draft practice note on planning agreements, it states that a development must still be viable when charged a CIC (based on a bonus floor space scheme) which gives further rigour to the adopted rate.

Condition 1(b) Opportunity Sites

Proposed building heights – predominant 9 storey built form

Page 6 of the Department's report states that Council's preferred built form option has not been tested in the way other options had. As a basis for preparing the built form controls for the Kensington and Kingsford town centres, urban design principles were established to help define the future character of the town centres and provide guidance for growth and development. These principles included the following:

- Reinforce a boulevard character along Anzac Parade by strengthening the built form edge
- Focus on achieving a dominant typology of mid-rise mixed use buildings throughout the town centres
- Permit taller landmark buildings in prominent highly accessible locations in conjunction with the delivery of substantial public benefits established through a design excellence process
- Achieve a sensitive transition in relation to recently constructed development and surrounding established lower scaled residential neighbourhoods
- Create a positive street level environment through built form that allows solar access, permeability and maintains human scale

A mid-rise built form for the town centres (and surrounding areas) is a key design concept of the K2K Urban Design Competition winning entry. The Strategy recommends an overall mid-rise height limit of 31 metres (equating to nine storeys) for new development throughout both town centres. From an urban design perspective, the spreading of density mainly through mid-rise buildings provides a more human scaled built form that supports a comfortable pedestrian environment while also enhancing opportunities for solar access. The suggested 31m (nine storey) height limit is considered to respond well to the proportions of Anzac Parade and other streets within the study area. It also provides an appropriate scale transition to recently constructed buildings (approved under existing planning controls), while respecting the character of surrounding lower scaled residential neighbourhoods.

It is Council's view that Condition 1 (b) is not required if the CIC clause is supported. That is because the Planning Proposal intends that the increased building heights will be achieved via the CIC clause.

To clarify, the Planning Proposal is not proposing to amend the existing height and FSR maps for the town centres as the mechanism to achieve higher density will through the mechanism enabled by the CIC clause. Additional heights are proposed to be illustrated in an 'alternatives building height map'. We have sought the Departments clarification on the intent of this clause.

Council agrees that the Planning Proposal and draft maps should be amended to clarify the intent that the CIC clause is the mechanism that provides for an increase in height and FSR. Page 10 of the Planning Proposal shows the maximum FSR's for the various parts of the town centres, identified as Areas 1 to 5.

The proposed design excellence clause which requires a design competition applies to the opportunity sites only and allows a further 2 storeys above the maximum permissible heights. The Department's comment on page 15 of the Gateway Review Report is correct in that this design excellence provision permits additional height but does not permit additional FSR beyond that specified in the Planning Proposal.

Condition 2 - Public Authority Consultation requirements

Condition 2 of the gateway determination requires Council to undertake consultation with certain agencies. Council has undertaken consultations and the outcome of these consultations will be provided to the Department. There are no issues that would prevent the Planning proposal progressing to formal public exhibition. Council accepts the Department's position not to remove or amend this gateway condition.

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
1.	<ul style="list-style-type: none"> • Section 7.7 of the EP&A Act states that where an instrument specifies that a VPA must be entered into before a DA can be considered has no effect. • The approach for the CIC proposed by Council would result in a mandatory requirement to enter a VPA and therefore cannot be legally made. 	<ul style="list-style-type: none"> • Council's lawyers have advised that the proposed CIC clause is <u>consistent</u> with the Act on the basis of the following: <ul style="list-style-type: none"> - There is no mandatory requirement to enter into a VPA under clause 6.14. The purpose of clause 6.14 is to provide a developer with an option to achieve additional height by contributions to community infrastructure via a VPA. The developer has the discretion to voluntarily make use of clause 6.14. The CIC does not preclude the submission of a DA. - The CIC clause is supported by a clear policy framework and evidence base which identifies infrastructure needed to support growth. It provides the framework for considering and granting consent for additional height (above existing height) in lieu of a contribution towards community infrastructure under the RLEP 2012. - There is no case law to suggest that the clause is unlawful and/or beyond the LEP making power available under the Act. - The clause complies with the fundamental principles of planning agreements outlined in the Department's draft practice note for planning agreements dated November 2016 - The draft CIC clause is modelled on clause 6.14 'Community Infrastructure floor space at Green Square' in the <i>Sydney Local Environmental Plan 2012 (SLEP)</i> which has been in operation since 2012 in its current form. - The difference between the clauses is that the Green Square clause is for floor space ratio whereas Council's proposed clause is for height. Given that the Green Square clause (6.14) has been in operation for a number of years this provides further rigour to the Council's proposed draft clause 6.14 in terms of power and policy merit.
2.	Several infrastructure items are not linked to demand created by additional development nor are considered to be 'essential' eg. Pneumatic waste system, WSUD, public artworks.	<ul style="list-style-type: none"> • The CIC infrastructure list is considered essential to meeting infrastructure needs stemming from redevelopment of the town centres. The uplift afforded by the proposed built form controls will result in a substantial increase in dwellings and employment floor space across both town centres. The subsequent increase in

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
		<p>population will place demand on existing infrastructure and the public domain which needs to be addressed through a comprehensive community/local infrastructure delivery program, funded via a combination of s94A, CIC and Council's Capital Works Budget.</p> <ul style="list-style-type: none"> • All CIC items have been identified and appropriately justified by the Planning Strategy, with careful consideration given to the vision and future directions for the town centres. For instance, in relation to the pneumatic waste system, redevelopment of the town centres would result in additional waste generation, increased visual clutter from kerbside sulo bins, and further pressure on the street network from garbage removal trucks. The Planning Strategy has a clear vision for the public domain and surrounding streets, including the laneway networks that straddle the town centres. As such, the proposed pneumatic waste system would be an essential in improving the visual amenity of the town centres through the removal of traditional kerbside presentation/collection, and creating substantial environmental benefits including reduced noise, odour and gas house emissions and improved localised air quality. • All of the items on the CIC list are considered consistent with the requirements of the Act and Regulation. Moreover, most of the items fall within the definition of 'essential works' under the Local Infrastructure Contributions Practice Note (2018) namely: <ul style="list-style-type: none"> - Land for community services (e.g. community hub) - Land and facilities for transport (e.g. cycle path/facilities) - Land and facilities for storm water management (e.g. WSUD) • The CIC framework and infrastructure list is also consistent with a number of Eastern City District Plan directions/priorities in relation to liveability and sustainability including:

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		<p>Liveability</p> <ul style="list-style-type: none"> - E6. Creating and renewing great places and local centres. Nb: The Plan notes that place based planning principles should have a public domain and open space focus, provide, increase or improve local infrastructure provision, provide community services and facilities - Action 21: Use place-based planning to support the role of centres as a focus for connected neighbourhoods. - Action 18: Use a place-based and collaborative approach throughout planning, design, development and management, deliver great places by: <ul style="list-style-type: none"> a) prioritising a people-friendly public realm and open spaces as a central organising design principle b) recognising and balancing the dual function of streets as places for people and movement c) providing fine grain urban form, diverse land use mix, high amenity and walkability, in and within a 10-minute walk of centres d) integrating social infrastructure to support social connections and provide a community hub e. recognising and celebrating the character of a place and its people. <p>Sustainability</p> <ul style="list-style-type: none"> - E19. Reducing carbon emissions and managing energy, water and waste efficiently
3.	<ul style="list-style-type: none"> • RCC CIC provision is not the same as Green Square as the latter relates to infrastructure provided on-site, whereas many of the K2K CIC infrastructure items are off-site items. 	<ul style="list-style-type: none"> • The CIC provisions provide for infrastructure that is located within the town centre boundaries, and no items are to be provided off-site. The supporting guidelines referred to in clause 6.14(5) will be amended to make absolutely clear that the CIC funds collected would be only used to provide community infrastructure within Kensington and Kingsford town centres.
4.	<ul style="list-style-type: none"> • It is not clear where most of the works proposed will be located relative of the K2K area. Council has not provided specifications, plans or details e.g. width of bike lanes nor where the multi-purpose community centre is to be located. 	<ul style="list-style-type: none"> • The Planning Strategy justifies the need for, and identifies proposed locations for all CIC infrastructure items. For instance, the proposed community hub is earmarked for the Rainbow Street site Kingsford, which is specifically referred to in the Social Infrastructure section of the document and clearly marked on the Precinct Plan (page 205).

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
		<ul style="list-style-type: none"> Technical specifications for infrastructure items such as the width of bike lanes etc would be identified as part of the detailed design stage similar to any other infrastructure projects. This follows a similar approach to our s94A Plan 2015 which contains a range of infrastructure projects earmarked for the future and where detailed specifications have not yet been developed or finalised. It is unreasonable and illogical to expect that detailed design/technical specifications for identified CIC infrastructure items be known and finalised prior to the Planning Proposal being made.
5.	<ul style="list-style-type: none"> Nothing has been provided to justify/provide evidence that the infrastructure items are properly costed for or are reasonable (e.g. \$1.6 million for community centre is lower than for other community facility buildings. 	<ul style="list-style-type: none"> All items on the CIC infrastructure list have been costed internally based on current benchmarks including capital and construction costs associated with projects being undertaken in Randwick City. The reference to community centre in the CIC infrastructure list is for the fit out, not the construction of a new stand-alone building.
6.	<ul style="list-style-type: none"> Open space provision in Kensington is identified in the CIC infrastructure list however it is unclear where this would be delivered in terms of land and embellishments as well as location. 	<ul style="list-style-type: none"> To clarify, open space acquisition has <i>not</i> been included in the list of CIC infrastructure items; rather it has been included as a 'local infrastructure item' to be levied for under a future s94A Plan for the town centres. As articulated in the Planning Strategy, Council will advocate for new public open space on the south-western corner of the Randwick Racecourse (refer to section 9.3 and the K2K Structure Plan in the Planning Strategy). The Strategy details that this may include opening up the frontage to Anzac Parade, provision of recreational facilities, establishing public access with possible green links to Doncaster Avenue and Kensington town centre. Other opportunities identified in the Strategy include investigating potential to expand the footprint of Kokoda Park eastwards and increasing its capacity as well as converting redundant road space and other underutilised spaces to informal open space (e.g. large road reserve near the corner of Rainbow Street and Anzac Parade near the nine ways intersection, Kingsford town centre). All of these projects have been clearly marked on the associated maps in the Planning Strategy (e.g. landscape and open space provision maps) and are to be funded through a combination of s94A and Council's Capital Works Budget and grant funding.

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
7.	<ul style="list-style-type: none"> It is unclear how the community will directly benefit from some of the infrastructure items (e.g. smart poles and innovation centres). Questioned why smart poles are needed when the Light Rail is delivering smart poles along Anzac Parade. 	<ul style="list-style-type: none"> The Planning Strategy's place-based planning approach envisages town centres that are green, sustainable, attractive, vibrant and prosperous. The CIC infrastructure items will assist in implementing the planned future vision for the town centres with substantial community benefits including a high quality and liveable living/working environment, improved health and well-being, social cohesiveness, and economic prosperity. All CIC infrastructure items have been identified and appropriately justified in the Planning Strategy. In relation to innovation spaces, the Strategy recognises the town centres' linkages and proximity to the University of NSW and proposes to help nurture opportunities to establish small, start up or creative enterprises. Innovation spaces would have a positive flow-on effect on the local economy and employment, helping to support the Randwick Collaboration Area and foster the development of a niche innovation district (see pages 37/38).
8.	<ul style="list-style-type: none"> Some of the CIC items are so non-descript that it is unclear how a developer could offer to do these works in kind instead of paying the CIC. 	<ul style="list-style-type: none"> To clarify, the proposed smart poles are included as a 'local infrastructure item' to be levied for under the s94A framework, not the CIC. Further clarification is sought on which items are considered to be 'non-descript' in the CIC infrastructure list. All items have been adequately identified, clarified and justified in the Planning Strategy.

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
9.	<ul style="list-style-type: none"> • The CIC is different to the Green Square proposal: <ul style="list-style-type: none"> - Infrastructure is to be delivered off-site and into public ownership and does not have anything to do with the development being proposed - Based on achieving additional height not FSR - Developer could theoretically achieve the FSR while not relying on additional height - How a developer is required to pay a contribution based on additional height when the levy is based on additional GFA i.e. how does Council determine or developer establish what amount of GFA could be achieved under current height controls to determine what additional GFA is achieved? 	<ul style="list-style-type: none"> • The CIC infrastructure proposed will be delivered on site i.e. within the boundaries of the town centres. This will be further clarified in the supplementary guidelines.
10.	<ul style="list-style-type: none"> • There is no justification for the set \$475/m2 rate for the CIC levy. The rate doesn't appear to reflect cost of infrastructure, rather is reflective of the Green Square CIC levy. 	<ul style="list-style-type: none"> • The total dollar value of \$475 was recommended by our consultants (Hill PDA) as this rate had been market tested (i.e. in that it had been in operation in Green Square since 2012), it demonstrated that it could be afforded; and it generated the total monetary contribution required to fund the Council's community infrastructure estimate.
11.	<ul style="list-style-type: none"> • The PP appears to identify the full cost of infrastructure items, rather than apportioning based on different development within the town centres 	<ul style="list-style-type: none"> • The CIC identifies the estimated cost of infrastructure items and any shortfall would be met by Council. It is important to note that the CIC is an entirely different infrastructure funding pathway to s94. The CIC framework captures a portion of the increase in capital value resulting from revised planning controls which is then used towards community infrastructure provision, whereas s94 utilises apportionment to arrive at a nexus to ensure that a charge reflects the demands of new development and not other demands.

No	Gateway Report CIC Issues Raised by the NSW Department of Planning	RCC Comments
12.	<ul style="list-style-type: none"> The Department has obtained legal advice confirming that s94A and s94 are the only legal means of requiring a monetary contribution for infrastructure provision. Council is seeking to 'double dip' and or circumvent the developer contributions rules established under the Act. 	<ul style="list-style-type: none"> Council is not seeking to 'double dip' or circumvent the developer contributions framework. As noted above, the CIC provision provides an alternative pathway to fund community infrastructure, utilising the VPA process that is established under the EP&A Act. None of the items provided for on the CIC list would be levied for under a future s94A Plan for the town centres. Clause 6.14 is set up to be a voluntary provision providing an option to a developer to seek additional height through a contribution to community infrastructure by a planning agreement. There is no compulsion on the developer and the Council cannot unilaterally impose any requirement under clause 6.14.
13.	<ul style="list-style-type: none"> If the listed CIC infrastructure was included under a s7.11 Plan (formerly s94 Plan), most of it would not be considered to be essential or be able to captured in accordance with the Dpts Practice Note. 	<ul style="list-style-type: none"> All of the items on the CIC list are considered consistent with the requirements of the Act and Regulation. Moreover, most of the items fall within the definition of 'essential works' under the Local Infrastructure Contributions Practice Note (2018) namely: <ul style="list-style-type: none"> - Land for community services (e.g. community hub) - Land and facilities for transport (e.g. cycle path/facilities) - Land and facilities for storm water management (e.g. WSUD)

**Kensington and Kingsford
Town Centres
Providing Community Infrastructure
Development Guidelines
(Draft - Sept 2018)**



Introduction

These draft guidelines provide details on how key Community Infrastructure is to be delivered as part of the renewal of the Kensington and Kingsford town centres. The Kensington and Kingsford town centres planning strategy and draft planning proposal detail the vision and planning controls for implementation.

The Kensington and Kingsford town centres is shown in Figure 1 below.

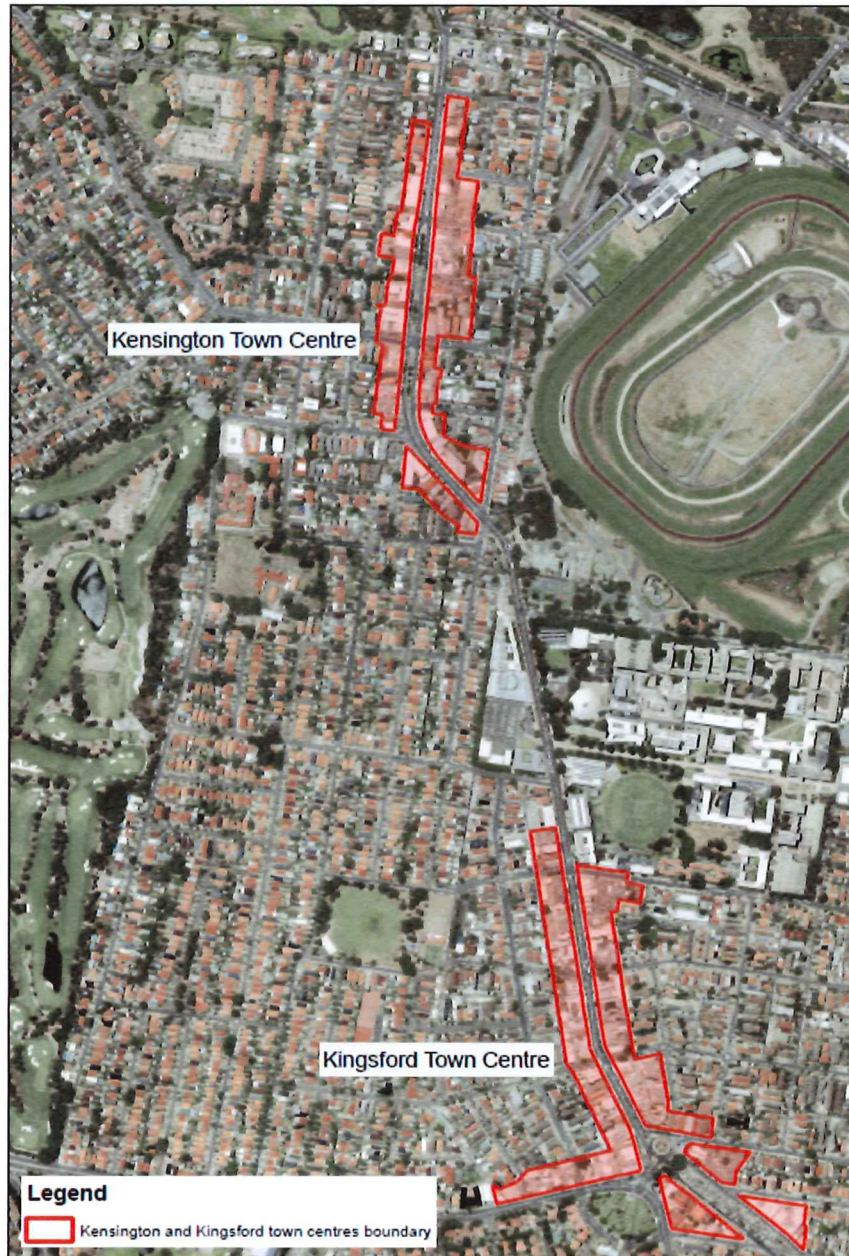


Figure 1. Kensington and Kingsford town centres boundary (highlighted red)

Purpose of this guideline

The purpose of this guideline is to:

- Explain why Community Infrastructure is needed to support the growth and function of the town centres as part of its renewal;
- Detail what essential Community Infrastructure is needed to support redevelopment,
- Describe how the Community Infrastructure can be delivered through the development process and Planning Agreements; and
- Outline how the value of the Community Infrastructure works is calculated.

Why is Community Infrastructure needed in Kensington and Kingsford town centres?

The Kensington and Kingsford town centres is undergoing change from the introduction of light rail, projected population growth, and redevelopment pressures.

The draft Kensington and Kingsford Town Centres Planning Strategy supports a new planning framework for these town centres to guide growth and change over the next 15 years. A projected increase of 23% in population and dwellings is expected by 2036. This new planning framework (via proposed amendments to Randwick LEP 2012 and DCP 2013) will allow for higher intensity of development at the right places and scale whilst also providing for community benefits.

The vision for the town centres of Kensington and Kingsford is to transform the area to an attractive, vibrant and sustainable place.

To accommodate this growth and to ensure the successful transformation of these centres, substantial new infrastructure and works is needed. In particular, the provision of a new pneumatic waste system, cycle ways and bike sharing infrastructure and as specified in the draft Kensington and Kingsford town centres planning strategy.

This guideline outlines the operational details to deliver community infrastructure in the town centres required to help realise the vision for these centres.

What is Community Infrastructure

Community Infrastructure in the Kensington and Kingsford town centres refers to the infrastructure, public domain and physical facilities that support the growth and function of the town centres and benefit the existing and new population as well as the wider Randwick population.

The community infrastructure described within these guidelines is that which is provided over and above the requirements of the Section 94A plan and is not being levied for under any other contributions scheme or planning instrument. It includes but is not limited to, new innovation centres, exhibition space, bicycle sharing facilities and water sensitive urban design. A list of the items and works is included within the appendix.

The Planning Framework

Randwick LEP 2012

Randwick LEP 2012 is the principal document that controls development and regulates land use. It is supported by a series of maps, including land use zoning, height of buildings and floor space ratio.

Clause 4.XX – *Height of Buildings* of Randwick LEP 2012 sets out the maximum Height of Buildings (HOB) for buildings which is shown in the HOB Map. An Alternative Building Heights (AHOB) map sets out the potential maximum building height which could be achieved if a contribution is also provided in accordance with proposed clause 6.XX - *Community Infrastructure at Kensington and Kingsford town centres*.

Proposed Clause 6.XX – *Community Infrastructure at Kensington and Kingsford town centres* under Part 6 of Randwick LEP 2012, refers to the provision of Community Infrastructure. It allows sites within the Kensington and Kingsford town centres to potentially achieve an alternative maximum building height shown in the AHOB Map, if the development contributes towards Community Infrastructure.

Randwick DCP 2013

Randwick DCP 2013 (draft section XXX) supports the controls set out in Randwick LEP 2012 with detailed development and design controls (yet to be exhibited) to achieve the vision for Kensington and Kingsford town centres.

This new section of the DCP will also detail the type and location of Community Infrastructure needed in the town centres to support the growth and function of the area.

Planning Agreements

Planning Agreements are governed by Section 7.4 (cf previous s 93F) of the *Environmental Planning and Assessment Act 1979* and are referred to as 'Voluntary Planning Agreements'. They are legal agreements between the planning authority and a developer, under which the developer voluntarily agrees to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit or any combination of them, to be used towards a public purpose.

Randwick S94A Development Contributions Plan

Section 7.12 (cf previous s 94Af) of the *Environmental Planning and Assessment Act 1979* enables the consent authority to levy a flat rate contribution on all development applications with an estimated cost of works of more than \$100,000. The contributions are applied according to the schedule of works within the plan.

How is the contribution towards Community Infrastructure determined?

The Height of Buildings (HOB) Map under Randwick LEP 2012 identifies the maximum building height permissible for each site within the Kensington and Kingsford town centres. Proposed *clause 4.XX Exceptions to height of buildings on land within Kensington and*

Kingsford town centres allows for greater building heights on a site within the Kensington and Kingsford town centres if a contribution towards community infrastructure is provided in accordance with proposed clause 6.XX - *Community Infrastructure at Kensington and Kingsford town centres*. In this instance, the maximum building height is identified in an Alternative Building Heights (AHOB) Map under Randwick LEP 2012.

The additional building height achievable on a site subject to the proposed clause 4.XX *Exceptions to height of buildings on land within Kensington and Kingsford town centres* has been derived by specialist urban design input to ensure the desired built form outcome for an area. The development proposal must be acceptable on a merit assessment before the Council can agree to a contribution towards Community Infrastructure.

If an applicant seeks to access the alternative building height under clause 4.XXX *Exceptions to height of buildings on land within the Kensington and Kingsford town centres of Randwick LEP 2012* and provide Community Infrastructure, the following is required:

- Ensure the site is eligible and establish the additional building height potentially achievable by checking Clause XXX – Height of Buildings and the relevant AHOB Map, and Clause XX – *Community Infrastructure floor space at Kensington and Kingsford town centres* under Randwick LEP 2012;
- Calculate the amount of additional proposed Residential Gross Floor Area generated as a result of the additional building height; and
- Ascertain the contribution towards Community Infrastructure that would be required to achieve the additional building height by checking the rate as specified in this draft guideline (under section XX) and the DCP.

The total dollar value of the Community Infrastructure contribution is based on the cost of community infrastructure required or works and calculated based on the amount of additional residential floor space proposed from the additional building height potentially achievable under clauses 6.X - *Community Infrastructure floor space at Kensington and Kingsford town centres* and 4.X – *Exceptions to height of buildings on land within Kensington and Kingsford town centres*.

The dollar rate per square metre of additional residential floor space proposed as a result of achieving the additional building height is as follows:

Residential floorspace:	\$475 per square metres (incl. GST)
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The monetary contribution applies to the additional residential floorspace gained as a result of the additional building height sought under Clause XX - *Community Infrastructure floor space at Kensington and Kingsford town centres* under Randwick LEP 2012.

What is the process?

The legal instrument that sets out the applicant’s offer to contribute towards essential Community Infrastructure in association with a development proposal is the VPA. The offer is made voluntarily by the applicant so as to access additional floor space potentially achievable under Randwick LEP 2012. The details of the contribution are incorporated into a

VPA which is to be prepared and finalised as set out under the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

The following steps summarise the process to deliver the Community Infrastructure contribution in association with the development proposal:

Step 1: the applicant/landowner calculates the total dollar value of the additional residential floor space sought using the above rate and guided by the (draft) provisions contained in Randwick LEP 2012 and DCP 2013.

Step 2: the applicant/landowner makes an offer to the Council outlining their willingness to enter into a VPA to provide Community Infrastructure.

Step 3: both parties negotiate the terms of the VPA

Step 4: the Council and the applicant finalise the draft VPA. The parties also agree on the details of the explanatory note to accompany the public exhibition of the draft VPA.

Step 5: the DA is lodged with the Council including a copy of the draft VPA (including the explanatory note).

Step 6: the DA and draft VPA are exhibited concurrently. The draft VPA is exhibited for at least 28 days.

Step 7: assessment of the DA and any submissions received during exhibition period.

Step 8: the DA and any relevant modifications is determined by the consent authority as a 'deferred commencement' consent until the VPA is executed.

Step 9: once the VPA is executed by the Council and the applicant, the applicant registers the VPA on title and the consent becomes operative. The VPA is placed on Council's Public Register.

Appendix

Schedule of Local Infrastructure and Community Facilities

COMMUNITY INFRASTRUCTURE	
KENSINGTON	
Public art/sculpture	\$1,100,000
Bicycle networks	\$1,000,000
Cycle sharing facility	\$300,000
Todman Avenue Cycle Way	\$3,000,000
Green links	\$1,500,000
Multi-purpose community centre and exhibition centre	\$1,600,000
Innovation centre	\$3,000,000
Cycle sharing facility	\$300,000
Upgrades including water sensitive Urban Design	\$3,000,000
Pneumatic waste collection	\$6,400,000
TOTAL	\$20,900,000
KINGSFORD	
Public art/sculpture	\$ 1,000,000
Community facility	\$1,200,000
Kensington Park	\$1,600,000
Innovation centres	\$1,500,000
Underground bicycle storage facility	\$2,500,000
Cycle sharing facility	\$300,000
Upgrades incorporating water sensitive Urban Design	\$3,000,000
Pneumatic waste collection	\$7,600,000
TOTAL	\$18,700,000



Our Ref: D03055547

13 October 2017

Mr Steve Murray
Executive Director
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Murray,

RE: Kingsford and Kensington Planning Proposal – Infrastructure Contributions Scheme

Further to Council's letter of 11 August 2017 outlining the proposed three tier contributions system contained in the draft Planning Proposal for the Kingsford and Kensington Town Centres, I am writing to again seek the Department's support for Council's scheme which is aimed at meeting essential local infrastructure needs of the Centres. As highlighted in meetings with your team and the Policy team, altering the scheme would undermine the significant work carried out by Council to date and result in limited potential for achieving the sustainability and liveability outcomes envisaged in the strategy.

Council officers have tried unsuccessfully on multiple occasions to arrange a meeting with the Department's Policy and Sydney Region East teams, together our specialist consultants to clarify the components of the contributions scheme and outline the implementation and delivery process. It was agreed in earlier meetings that this approach of having all experts work thorough the key matters would be a positive way forward.

As noted in our earlier correspondence, Council's proposed Community Infrastructure Charge (CIC), draft S.94A Plan and affordable housing contribution are legitimate planning mechanisms for the delivery of public benefits within the town centres and are intrinsic to the draft Strategy. These schemes were subject of detailed feasibility testing and discussed at length with Department officers in 2016 prior to the draft Strategy being submitted for gateway determination.

The proposed CIC clause in the draft Planning Proposal is legally possible as it has been operating with demonstrated success in Green Square (City of Sydney LGA) since 2006. Recent discussions with officers of the City of Sydney have confirmed that this mechanism provides a transparent contributions scheme for the development industry and has been used to equitably share the delivery of essential infrastructure in the Green Square precinct. I would like to reiterate that deleting the CIC clause and relying solely on a S.94A Plan will not provide all of the identified local improvements needed to support the growth of the centres. Alternatively, a s.94 Plan as suggested by the Department in an earlier meeting is not practical or appropriate for these linear centres given

the smaller footprint spanning some 2km and the specific range of public benefits that could be included in such plan.

The Department is yet to provide Council with a compelling argument that the proposed contributions scheme should not be endorsed as part of the draft Strategy and Council urgently requests the Department's considered feedback on this important aspect of the strategy.

Once again, I would like to emphasise that the delivery of essential infrastructure in this corridor to support growth is paramount in the context of the introduction of the light rail that will transform this area and we therefore seek the Department's endorsement and gateway determination for Council's comprehensive strategic approach.

If you would like to discuss these matters further please contact me on 9093 6895 or via email alan.bright@randwick.nsw.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Alan Bright', is written over the typed name and title.

Alan Bright
Manager, Strategic Planning