

22 September 2021

Jeremy Bath  
Chief Executive Officer  
City of Newcastle  
Attention: Samantha Cross  
PO Box 489  
NEWCASTLE NSW 2300

By email: mail@ncc.nsw.gov.au; scross@ncc.nsw.gov.au

Dear Jeremy,

**RE: Draft Development Contributions Plans**

The Urban Development Institute of Australia NSW (UDIA) is the peak industry body representing the leading participants in urban development in NSW. Our more than 500 member companies span all facets of the industry from developers, consultants, local government, and state agencies. UDIA advocates for the creation of Liveable, Affordable and Connected Smart Cities.

UDIA welcomes this opportunity to comment on the Draft Section 7.11 and Section 7.12 Development Contributions Plans currently on exhibition by the City of Newcastle (Council). We appreciate the planning staff for taking the time recently to brief members of the UDIA Hunter Committee about what is proposed. It was a useful discussion which has assisted us with making a constructive submission.

Whilst we are always concerned by any increase in the rate of development contributions and the impact on housing affordability, UDIA appreciates the care Council has taken to propose their new approach. We do have concerns, particularly with the works schedule and the application of the new plans to Section 4.55 modifications. Those and other concerns are outlined in our submission. Our recommendations are:

- 1. Council should make clear how the backlog of infrastructure from the existing s7.12 plan will be funded and delivered.**
- 2. Council should ensure it has adequately considered the issue of physical nexus with regard to the s7.11 plan and its works schedule.**
- 3. Council should make clearer the criteria it will use in considering WiK proposals.**
- 4. The plans should make clear that in the case of a development consent granted prior to the commencement of the new plan, any modification to that consent will be determined on the basis of the previous plan.**

Background

In principle, UDIA supports the use of the development contribution system to provide for the infrastructure needs created by new development. UDIA underscores that Council must keep in mind that the actual cost of contributions is passed through to purchasers in the form of higher prices for new housing. Council is proposing to increase the effective contributions rate in the local government area (LGA) (outside of the existing Western Corridor s7.11 Plan). This will further erode housing affordability in the Newcastle market.

UDIA recommends that any contributions collected must be spent in a timely and efficient manner to deliver jobs, housing, and a better quality of life for local residents. UDIA's *Infrastructure Funding Performance Monitor* shows that in FY20, councils held \$3 billion in unspent development contributions across the Sydney Megaregion (Sydney, Hunter, and Illawarra). Pleasingly, the City of Newcastle has, in recent years, been investing heavily in local infrastructure and that spending has recently outpaced its s7.12 collections. The City of Newcastle's record for spending contributions collected under its s7.12 plan is very good compared with other Councils across the Sydney Megaregion.

UDIA has supported the Council's historic use of s7.12 across most of the LGA as such plans are easier to understand and can improve the relationship between when contributions are collected and when the demand for infrastructure actually arises. We consider this benefit to be a real advantage of the use of s7.12.

However, given its infrastructure needs are outpacing its ability to fund them under the limitations of the s7.12 regime, it is understandable that Council is proposing to move to a Section 7.11 plan across the LGA (outside of the singular existing Western Corridor s7.11 plan area) to raise adequate contributions to provide for necessary community infrastructure. We do not oppose the introduction of a new s7.11 plan on that basis.

We appreciate Council's stated commitment to align its plans with the NSW Government's Infrastructure Contributions Reform initiative, including adhering to the principles of transparency and accountability. We note that the reforms will include changes to the essential works list which may require a plan update. UDIA welcomes Council's stated intention to develop a web-based reporting interface to facilitate transparency, and we would be grateful for the opportunity to collaborate with Council on that project.

## Recommendations

### *Backlog*

UDIA is concerned that the proposed new plans are expected to collect almost three times the amount Council had been collecting under the existing s7.12 plan. It would appear that the percentage limitations on the current s7.12 plan have not provided sufficient funds to meet the infrastructure demand created by new development in the City. This presumably means there is a backlog of unfunded infrastructure that the Council will need to fund over coming years. The exhibited documents do not make clear how Council will fund that backlog but based on our discussion we have assumed that the draft plans are only focused on the demand created by future development. UDIA recommends:

- 1. Council should make clear how the backlog of infrastructure from the existing s7.12 plan will be funded and delivered.**

### *Nexus*

We note that Council has essentially adopted a city-wide approach to the new contributions regime and has not broken the contributions down into catchments or sub-catchments.

It would be expected that a significant amount of the forecast development would take place in the locations identified for new development in the *Greater Newcastle Metropolitan Plan 2036*. The location of most items in the s7.11 works schedule do not appear aligned to those precincts. For example, Broadmeadow and Mayfield/Islington are two areas identified for significant urban renewal potential, but the plan's works schedule has identified only very limited new infrastructure for those areas. We are therefore concerned that the works list may not appropriately reflect true needs. While UDIA is attracted to the simplicity of the city-wide approach, we caution that the legal requirement for nexus in s7.11 plans may expose Council to challenges around the plan's physical nexus. UDIA recommends:

- 2. Council should ensure it has adequately considered the legal issue of physical nexus with regard to the s7.11 plan and its works schedule.**

#### *Works in Kind*

Developer-delivered “works in kind” (WiK) provides the opportunity to shorten the timeframe to deliver planned infrastructure and provide greater industry certainty to support development. UDIA is hopeful that Council’s intent is to consider WiK proposals openly and favourably. We note the map of infrastructure locations in the plan is quite vague and does not identify with precision what infrastructure will be provided in which locations. This may limit the opportunity for the development sector to assist with the delivery of infrastructure through WiK. UDIA recommends:

- 3. Council should make clearer the criteria it will use in considering WiK proposals.**

#### *Transition and s4.55 Applications*

We note the draft plans contain a transitional arrangement and suggest that s4.55 applications lodged after the commencement of the plan will be dealt with under the new plan. UDIA asserts that Council only has power to impose development contributions on the grant of a development consent. A s4.55 application is not an opportunity for Council to levy development contributions at the new (and higher) rates. UDIA recommends:

- 4. The plans should make clear that in the case of a development consent granted prior to the commencement of the new plan, any modification to that consent will be determined on the basis of the previous plan.**

#### A Note on Affordable Housing

We understand that Council has started exploring opportunities to require the provision of affordable housing (or an affordable housing contribution) to assist with the concern of housing affordability in the Newcastle LGA. While UDIA generally supports initiatives that assist in increasing housing affordability, it is concerning that the Council would consider additional contributions for affordable housing, at the expense of new home buyers. This is particularly worrisome in the present circumstances where there will have been a material increase in the contributions payable by the development sector under the proposed contributions plans currently on exhibition. Ultimately, all additional costs are passed on to purchasers which will make it difficult for the Council to achieve its housing affordability goals.

We appreciate Council’s commitment to engage with UDIA as it considers options to address Newcastle’s housing affordability concerns and we look forward to future discussions on this important topic.

#### Conclusion

Thank you again for the opportunity to make a submission on the Draft Development Contributions Plans. UDIA looks forward to continuing to work with Council to deliver the outcomes of the *Greater Newcastle Metropolitan Plan*. Should you have any further questions, please contact UDIA Regional Manager Elizabeth York at eyork@udiansw.com.au or 0434 914 901.

Kind Regards,



Steve Mann  
**Chief Executive**  
**UDIA NSW**