



31 January 2020

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

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

Dear Ms Cross,

RE: DRAFT WESTERN CORRIDOR CONTRIBUTIONS PLAN

The Urban Development Institute of Australia (UDIA) NSW appreciates the opportunity to comment on the draft Western Corridor Contributions Plan (draft Plan) which is currently on exhibition.

UDIA is the key industry body representing the leading participants in the urban development sector in NSW, with over 500 member companies. Our Hunter Chapter is comprised of the full spectrum of the development industry in the region, including developers, architects, planners, ecologists, consultants and local government. We are pleased to count City of Newcastle (CN) as a valued member of the Institute.

UDIA members are proud of the communities they build and desire a high quality of life for the families who call them home. Appropriate infrastructure provision is critical to both the delivery and long-term success of development projects. Residents need access to safe and adequate transportation including roads, and to the proper social infrastructure to support a positive lifestyle. Toward those goals, the development industry is not opposed to paying its fair share of infrastructure costs to assist local government in meeting community needs.

UDIA supports proactive, regular and transparent reviews of local infrastructure contributions regimes. This helps keep the contributions regime up to date and focused on the infrastructure that is required by the development that is likely to take place in each local government area. We therefore congratulate CN for beginning the review process for the Western Corridor Contributions Plan, which has been in effect for 5 years.

UDIA has consistently sought to develop a positive, solutions-based working relationship with the City of Newcastle as we strive toward our mutual objectives of delivering the City's housing and employment goals. We are therefore disappointed that CN did not reach out to us during the development of the current exhibited draft Plan. The proposed changes are so significant as to warrant especially robust engagement with the development industry.

We are hopeful that our submission will be taken as constructive and the basis for productive discussion to assist in a positive outcome for both the City of Newcastle and industry.

At this time, UDIA considers that the review of the Western Corridor Contributions Plan is incomplete. We believe the proposed increase in the contribution rate is significant and not justified by the information provided, and there are questions around nexus to the proposed infrastructure items. These issues leave the Plan susceptible to legal challenge, creating further uncertainty. For these reasons, we must oppose the adoption of the draft Plan in its current form.

We urge CN to address the shortcomings outlined below and then re-exhibit the Plan to ensure the appropriate level of public engagement as it seeks to get the balance right for its residents. UDIA stands ready to work with CN in this process and assist wherever possible.

Recommendations

1. The draft Plan must not be adopted as currently written.
2. The draft Plan should be re-exhibited after the following matters have been addressed and incorporated into the revised document, and with the inclusion of all updated background material to ensure transparency:
 - a. Remove any infrastructure items which overlap with CN Contributions Plans No. 1 and/or No. 4 (for which contributions have already been levied).
 - b. Remove any development which has been levied contributions under NCC Contributions Plans No. 1 and No. 4 or the Sanctuary Estate VPA from dwelling forecasts and mapping within the Plan.
 - c. Update the traffic study to incorporate the following:
 - i. The findings of the Newcastle Link Road Corridor Strategy including any proposed upgrades from Transport for NSW.
 - ii. Revised traffic modelling to remove developments which are already approved or under construction from the assumptions of traffic generation attributed to “development”.
 - iii. Inclusion within the model of the significant traffic infrastructure upgrades identified in the CN Development Contributions Plan No. 4 yet to be constructed, on the basis that contributions have been levied against these upgrades and they must be delivered by CN.
 - iv. Clear identification of timing and point of origin for traffic generated by expected (planned future, i.e., not approved or under construction) new development with recognition that some developments within the plan area require rezoning of land, DA assessment, subdivision construction, registration of lots and house construction before they will generate traffic.
 - v. Further options analysis that acknowledges potential road linkages within the development sites, which further industry engagement would identify.
 - vi. Modelling of a scenario with background growth only (i.e., no new development) to ascertain the extent of upgrades required without expected (planned future) development. The outcomes of a comparison between this scenario and a scenario including expected (planned future) development should be clearly stated within the report to assist CN in assessing nexus between upgrades and expected (planned future) development.
 - d. Update the social infrastructure recommendations, providing:
 - i. Updated background document with all planning tools and explanations of methodology used to determine social infrastructure requirements, including rates of provision and further information regarding how the cost estimates were determined.
 - ii. Establishment of proper nexus between expected (planned future) development and the full list of identified infrastructure items.
3. Any increase in the contribution rate should be phased in.
4. On re-exhibition CN should provide commitment to funding the remaining infrastructure costs related to existing traffic capacity and background growth.

Additional Information

The draft Plan includes development already approved or under construction and does not establish nexus to expected (planned future) development

In addition to the “Expected (Planned Future) developments in the Western Corridor” on Coal and Allied, 505 Minmi Road, Xstrata and Seniors Living - Elernore Vale, the draft Plan identifies the following additional developments and yields which are approved and/or under construction:

- Nikkinba Ridge Estate – 463 Dwellings
- Hidden Waters – 427 Dwellings
- St Andrews Way – 25 Dwellings
- Sanctuary Estate – 836 Dwellings
- The Outlook – 618 Dwellings
- In addition, we note that a portion of the Coal and Allied site has already been approved.

Overall, it is unclear as to how CN have treated these dwelling forecasts within their Plan calculations, and this should be clarified as part of the re-exhibited material and prior to adoption.

All of the above developments (with the exception of The Outlook’s final stage 10 and Coal and Allied initial lots) are complete and all have been levied contributions under CN Contributions Plans No. 1 and No. 4 or the Sanctuary Estate VPA.

Including the approved and under-construction developments within the Plan and mapping creates a misleading presumption of nexus for new development, for example to infrastructure upgrades on and around Minmi Road, which passes directly through this area.

The traffic study should revise its modelling of “development” to remove the substantial traffic generated by the developments which are either approved or under construction. In the current traffic study, we note that these developments are included, and this erroneous assumption accounts for 44% of the new traffic generation attributed to “development” in the model, thereby overstating the impact of expected (planned future) development to which the Plan would apply. We also note that the traffic study is clear that the area network is “already approaching capacity” and a large proportion of the identified upgrades are required as a result of existing traffic or background traffic growth exclusive of expected (planned future) new development.

Clause 27 of the Environmental Planning and Assessment Regulation 2000 requires the plan to demonstrate the relationship between the expected types of development and the demand for additional public amenities and services to meet that development (that is development that will happen after the plan comes into effect).

New development cannot be expected to pay for road upgrades that are either already needed, or needed as a result of previously-levied development. Those works should be removed from the Plan and their delivery funded by other sources, including previous contributions as appropriate.

Any items that are already included in CN Contributions Plans No. 1 or No. 4 or the Sanctuary Estate VPA should be removed from the draft Plan. For example, there is an overlap between the Minmi Road Infrastructure in the exhibited material and the existing CN Contributions Plan No. 4. Any overlapping items should be removed on the basis that CN have already levied funds for these upgrades (we note they are yet to be delivered).

In general, the draft Plan does not provide the necessary information to evaluate whether nexus exists between future development and the identified social infrastructure items. That

information should be made available in the re-exhibition to enable the public to understand and assess the need for proposed items.

Additional items will also likely warrant removal if those developments already levied (i.e, the approved and under-construction developments) are appropriately removed from the Plan. We believe that proper background studies will show that there is little to no nexus between the expected (planned future) developments and several proposed infrastructure items. (These would likely include Minmi Road infrastructure, as well as the pedestrian infrastructure through Hidden Waters and the Nikkinba playground.)

We acknowledge that CN may have referenced the approved and under-construction development in the draft Plan to cover any potential infill development. However, we question whether the quantum of infill development would warrant the facilities being proposed. Regardless, these assumptions should be spelled out.

The Traffic Study is deficient since it does not have the benefit of the upcoming Newcastle Link Road Corridor Study.

The traffic study underpinning the draft Plan calls for \$217,683,813 in road upgrades primarily to upgrade Minmi Road, yet the NSW Government has not yet revealed the strategy for the Link Road which will be the major attractor of traffic from the remaining developments within the Plan. Transport for NSW has stated that work is ongoing on the Newcastle Link Road Corridor Study and should be released in the near future. The Western Corridor traffic study must then be updated to incorporate the findings and upgrades within the Newcastle Link Road Corridor Study. Once the traffic study has been updated, the draft Plan should be re-exhibited before adoption is considered.

We also point out that Transport for NSW (Roads and Maritime Services [RMS]) will ultimately have to approve many of the identified road upgrades and all the proposed new signals. CN should consult with RMS on the proposed list to provide a level of confidence that the upgrades can be delivered as recommended. It is unreasonable to ask developers to pay for projects that may not be approved and delivered.

The Social Infrastructure Needs are not established.

The plan increases Social Infrastructure Costs by \$24 million, that is from \$34 million to \$58 million without any justification.

The draft Plan refers to “recommendations from a review of social infrastructure projects and associated costs.” However, no details are provided. The draft Plan also refers to the examination and/or preparation of a “range of planning benchmarks”; “a set of facility planning principles”; and “a set of requirements and a schedule for... facilities”, none of which are detailed.

When compared to contribution plans in Sydney the costs of open space works seem high, with an average of \$4,709 per person (excluding the community hub), whereas in Schofields for example, the rates vary between \$1,254 and \$3,732 per person. Therefore, we believe that there should be a close examination of these costs.

The social infrastructure requirements detailed in the current Contributions Plan were underpinned by a detailed supporting background document, prepared by a reputable planning firm with significant expertise in contributions plans. That is, the *Western Corridor Section 94 Background Document* (GLN Planning, August 2013).

Given the quantum of the changes, both in costs and the actual infrastructure items proposed, it is unclear why CN has chosen not to update the Background Document as part of this review. We note that the draft Plan deviates from the recommendations of the Background Document; however, no information has been provided by CN explaining the rationale behind the changes.

Such a significant increase from a professionally prepared and adopted plan requires justification.

The planning tools used by Council to arrive at the recommendations of the draft Plan must be provided to allow the public to adequately evaluate the needs for, and nexus to new development of the identified infrastructure as well as the base dwelling and population assumptions. Further, a breakdown of the cost estimates contained in the draft Plan is critical, given the social infrastructure costs for some items have increased by approximately 300%.

The draft Plan should be re-exhibited with these tools and analysis attached.

Exceeding the Contribution Cap

The development industry is not opposed to paying its fair share of infrastructure costs. However, based on the issues outlined above, UDIA strongly opposes raising the cap for the Western Corridor Contributions Plan from \$20,000 to \$30,000 per lot or dwelling as the increase has not been justified and we are concerned that CN is seeking to bypass the IPART review process.

The draft Plan notes that while IPART is normally involved in reviewing and approving an amount above the cap, CN will instead seek approval from the Minister for Planning and Public Spaces.

UDIA is disappointed that CN is seeking a pathway which reduces the amount of independent scrutiny on its contribution plan. We will communicate these concerns to the Minister for Planning and Public Spaces.

UDIA recognises the strategic economic importance of developing the Western Corridor Urban Release Area for the benefit of Newcastle, the Hunter and broader NSW. We are concerned however, the cumulative impact of new taxes, charges and levies will result in development becoming unfeasible and not going ahead.

If the draft Plan is adopted in its current form, there are two possible outcomes:

1. Developers pass on the increased costs to maintain margins, which increases the price of a new home, or
2. Where costs are unable to be passed on, new homes cannot be built as the margin is eroded to the point that it is uneconomic to develop, meaning housing supply in the Western Corridor would not be delivered as forecast. This would place upward pressure on prices.

Under either of the above scenarios, the draft Plan is likely to undermine CN's efforts to address housing affordability, and instead lead to higher home prices. The proposal to more than double contributions in the Western Corridor will have a direct negative effect on housing supply and affordability in this area, adding an extra 10-15 per cent to the average price of any new block of land in the area.

Phase In any Increase

If, after all the above is undertaken and provided, CN establishes the need for an increase in the local infrastructure contribution rate for the Western Corridor, any increase should be phased in. It is critical that there is certainty for the development industry. Developers make decisions over a 7-10-year timeframe.

CN has been aware of the planned growth in the Western Corridor for at least a decade, and it is essential to note that future development plans in the corridor have not changed significantly since the Plan was adopted.

The existing rate of \$13,646.75 was developed by Council specifically for the Western Corridor and came into effect in January 2014. 5 years ago, the Plan called for approximately \$5.7 million in road and traffic infrastructure. The current draft Plan now calls for \$34 million in road and traffic infrastructure, yet nothing has changed in anticipated development except that some sites have progressed through approval and construction. The same principle applies to the provision of social infrastructure which has jumped from \$34 million to \$58 million. It is inequitable (and potentially unlawful) to ask future residents to compensate for the council's lack of adequate planning and under-investment in infrastructure in the past.

If any level of increase is warranted, we recommend a more gradual approach, transparently outlined, so that any increase does not make development unfeasible or prejudice the industry's capacity to meet supply targets.

Conclusion

UDIA again applauds CN for taking the first step toward a comprehensive review of the Western Corridor Contributions Plan, and we hope to assist CN as it undertakes the necessary tasks to complete the review. Whilst the proposed changes in the draft Western Corridor Contributions Plan are being treated as an update, UDIA believes that the changes are significant and warrant further justification prior to adoption.

UDIA has long advocated for certainty when it comes to infrastructure contributions. A shock change such as the increase proposed in the draft Plan will lead to either higher prices, restricted supply or both. To seek to more than double the levy overnight without adequate justification is concerning.

The Draft Western Corridor Contributions Plan should be re-exhibited after addressing the concerns outlined in this submission. For transparency and completeness, the re-exhibited documents should include updated background documents that justify the social and transport infrastructure being levied, as well as breakdowns of the cost estimates contained in the Plan. Further, the traffic study should incorporate the findings of the Transport for NSW Newcastle Link Road Corridor Study.

UDIA appreciates the opportunity to comment on the draft Plan via the submissions process, and we would be grateful for further engagement with CN as it works to improve the draft, prior to its re-exhibition. Should you have any questions or wish to schedule a meeting for further discussion, please contact our Regional Manager Elizabeth York on 0434 914 901, or eyork@udiansw.com.au.

Yours sincerely,



Steve Mann
UDIA NSW CEO

cc: Councillors
David Clarke
Rob Stokes MP, Minister for Planning and Public Spaces