Item 5
At Central Sydney
Planning Committee
14 May 2026

Relevant Information for Central Sydney Planning Committee

FILE:	**X099241**	**DATE:**	14 May 2026
TO:	The Central Sydney Planning Committee		
FROM:	Graham Jahn AM, Chief Planner / Executive Director City Planning, Development and Transport		
SUBJECT:	Information Relevant To Item 5 – Post 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		

For Noting

For the information of the Central Sydney Planning Committee.

Background

At the meeting of the Equity and Housing Committee on 11 May 2026, several matters were raised by Councillors about the recommended post exhibition changes to the Planning Proposal - Affordable Housing Contributions Review (planning proposal) and Draft City of Sydney Affordable Housing Program 2024 (Program).

Amendments to the recommendations were not voted on in the meeting. The Item was put to Council without recommendation.

This memo is intended to make the Central Sydney Planning Committee (CSPC) aware of the matters raised by some Councillors. A full recording of the discussion is available here (Item 3).

Delaying the phase-in on the increased monetary contribution rate

Some Councillors said they were disappointed with the proposed delay to the introduction of the increased monetary contribution rate. This was of particular concern given the current housing affordability crisis. An amendment to the recommendation to restore the publicly exhibited phase-in approach was discussed but not voted on.

Response

The proposed implementation delay by 12 months to the phased-in increase in equivalent monetary contribution rates (dollar rates) is a response to submissions from industry as well as changes to forecast economic conditions.

Submissions raised concerns that the increase in rates would impact on feasibility in an already challenged market, and that more time was needed for the market to recover before the rates were introduced. Increasing the period of notice through a delay to commencement allows more opportunity to ensure that the contribution is built into land price/acquisition.

A detailed economic study was first prepared in October 2024 at a time when there was considerable optimism about the recovery of the market, with reducing inflation and expected interest rate decreases flagged for early 2025. However, since that time the market has taken yet another downturn, with inflation and interest rates again increasing and a higher level of cost exposure from the war in the Middle East.

Following submissions, the economic study that underpinned the proposed increased rates and phase-in strategy was revisited prior to making final recommendations to Council and the CSPC. This enabled staff to independently consider current market conditions.

The City acknowledges there are ongoing challenges to feasibility in the current market for some developments, noting a slowdown in development application lodgements and the high number of approvals in the development pipeline that are not being built. This in turn is slowing the collection of affordable housing contributions.

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 theoretically collected – this is about 320 dwellings – a 20% increase on what we are likely to receive under current rates. However, this is highly dependent on the approvals beyond our control with State Significant Development admitted by the HDA and other state reforms

The City’s affordable housing scheme operates in perpetuity, that is, it has no end date in the environmental planning instruments. Over the life of the policy, a short delay in the introduction in increased rates is unlikely to have a significant impact on the quantum of contributions collected. It will however allow for a longer period for market recovery and adjustment for development projects and will ensure development applications to be lodged within the National Housing Accord period (to June 2029) remain unimpacted by the increased rates. The City will continue to collect contributions under the current rates during the delay period.

Given the above, it is proposed that phasing-in of increased monetary contribution rate be delayed commencing for 12 months as recommended in the report.

Excluding a single dwelling house, attached dwelling and dual occupancy

Some Councillors raised concerns around the post-exhibition proposal to exclude a single dwelling house, attached dwelling or dual occupancy from the requirement to make an affordable housing contribution in the draft Program.

Councillors said the concern related to the potentially inequitable approach of houses compared with apartments, with a perceived benefit to houseowners. Some councillors felt that either apartments should be added to the list of exclusions or that a single dwelling house, attached dwelling and dual occupancy should be removed from the proposed exclusions.

An amendment to the recommendation to remove the proposed exclusion was discussed but not voted on.

Response

Contributions are linked to the creation of new floor space. The threshold or trigger to make an affordable housing contribution is contained in the LEP. For residential development, a contribution is generally only required when the development application relates to 200sqm or more of floor space (100sqm in Central Sydney). This applies to co-living (including student housing), build-to-rent and build-to-sell, whether it includes apartments, townhouses or terrace product.

Development applications for a new 200 sqm+ single dwelling house, attached dwelling or dual occupancy are not common in the local area. Development applications for additions to homes, for example by adding a basement, extra bedrooms or a pool house do occur, but infrequently, and are very unlikely for single apartment dwellings.

Two submissions received during public exhibition asked that the list of exclusions be further examined, raising concerns that in some circumstances the contribution was not ‘reasonable’.

This Environmental Planning and Assessment Act 1979 (Act), stipulates that an affordable housing dedication or contribution must be “reasonable” (Section 7.32(3)(c)), which is different to a local infrastructure contribution which is not framed with a reasonableness test.

As a result of submissions and a recent court appeal, the City undertook a broader review of development that might be excluded from the need to make a contribution. The review was also cognisant of aligning the approach across the City’s local development infrastructure contribution plans for consistency where relevant.

Following review, it is proposed to exclude a single dwelling house, an attached dwelling and a dual occupancy from the need to make a contribution (alongside other additional forms of development such as boarding houses and residential care facilities). This is in recognition that even with the proposed $150,000 exclusion threshold and the 15% of costs cap, that the resulting contribution can be disproportionately high compared with the scale of works proposed and can add considerable cost to small residential projects, potentially impacting the feasibility of building / renovating a family home or housing for people on low-incomes or with support needs.

Our review concluded that the contribution may be considered unreasonable. Single and attached dwellings makes up about 17% of the dwellings in our local area but the likelihood that they are increased by more than 200 sqm is infrequent.

Further, the City’s Affordable Housing Program contains a list of potential exclusions from the need to make a contribution where a requirement is triggered by the LEP. These exclusions establish the circumstances where a contribution requirement is considered unreasonable given the nature and scale of the development proposal.

Enlargement of single individual apartments are not proposed for exclusion in the same way. Unlike a house, and being subject to a strata plan, means it is very unlikely that a development application for ‘new’ floor space would occur (the consolidation of existing apartments to create a larger apartment is not building new floor space). It is therefore considered unnecessary to create an exclusion for this type of development.

Excluding on the grounds of “hardship”

Some Councillors suggested that exclusions from the requirement to make a contribution should be made on the grounds of individual hardship.

Response

A hardship test in the Program is not recommended. The recommended approach is for a defined set of exclusions to avoid discretionary decisions which is consistent with the long-standing approach to local development infrastructure contributions.

In addition, a hardship test would create a need for discretionary decisions by assessment planners, Executive or the CEO on a case-by-case basis.

This would result in uncertainty and a significant and unreasonable burden on an assessment, given the planner who would have not have an objective measure of when an applicant was in genuine hardship or not. It is also uncertain as to the extent the City could access reliable evidence to make a decision.

Mandated dedication of dwellings

Some Councillors said that the requirement in the publicly exhibited planning proposal, that mandates that sites listed on Schedule 6C of the Sydney LEP 2012 (rezoned sites) must satisfy an affordable housing contribution by dedicating built housing (unless Council agreed resulting housing would be inappropriate for an affordable housing use), should be retained.

Councillors argued that retaining this requirement in the LEP gives Council the power needed to compel dedications (transfer of units to the consent authority) where it was appropriate to do so with the following points raised:

- smaller community housing providers (CHPs) would rather receive or manage dedicated/transferred stock (given they do not have development capabilities), and that while the City does not allocate contributions to smaller CHPs at this time, it may in the future.
- To not make this change now would prejudice the possibility of smaller CHPs participating in the City’s affordable housing contribution scheme in future. It would mean that we would need to go through the amendment process all over again to facilitate dedications;
- A dedications approach would facilitate affordable housing being salt and peppered throughout the local area;
- dedications could be helpful if there is insufficient land available to utilise collected affordable housing funds;
- there is no reason why the City could not accept dedicated stock before transferring it to a willing CHP;
- other councils like Randwick and Willoughby require dedications of strata units, so should the City; and
- there is no evidence yet for the concern raised in the officer’s report that development being assessed in the Housing Delivery Authority State Significant Development (HDA SSD) pathway will not follow the requirements of the City’s affordable housing policy.

An amendment to the recommendation to restore the publicly exhibited approach was discussed but not voted on.

Response

It is relevant to note that ‘dedication’ can only relate to Build-to-Sell (BTS) apartments as only they can be subdivided. Dedication must be to a consent authority. The other forms of residential housing produced at scale, namely Student Housing, Co-living, and Build-to-Rent (BTR), have restrictions on subdivision and cannot be dedicated.

As an alternative to mandated ‘dedication’, a Voluntary Planning Agreement can continue to be used to secure units within a development to be used as affordable housing according to the City’s requirements (i.e., income based rents and long term ‘in perpetuity’ and managed by a registered CHP). Such housing can be held by a Special Purpose Vehicle (SPV), an institution, a pension fund or similar arrangement, without the need to transfer it to a CHP.

Maximising affordable housing outcomes

There was general agreement from Councillors that the aim of the City’s affordable housing contribution scheme should be to maximise affordable housing.

Submissions from CHPs, the City’s economic study (see original report here) and other academic and industry research are strongly in favour of monetary contributions to meet this goal allowing tax free CHPs to leverage funding from multiple sources. They highlight the opportunities available to CHPs to deliver more affordable housing that is more appropriate for the same dollar investment from the contribution scheme. It also allows the affordable housing to be purpose built with lower operating costs for the CHPs.

While some Councillors indicated support for small scale CHPs owning and managing affordable housing as part of the scheme and noting this does have the advantage of spreading affordable housing across the local area at a finer grain, the City acknowledges this approach will likely deliver a lesser quantum of affordable housing.

It is also noted the City has taken other approaches to facilitate different and smaller scale forms of affordable housing, including through its Affordable and Diverse fund and selling land to CHPs to provide affordable housing.

Impact on development application timeframes

The mandated dedication approach set out in the publicly exhibited planning proposal will introduce more steps in the development application process (rather than the Planning Proposal process) for residential development, requiring:

- assessment of the suitability of the site for affordable housing;
- the City to consult with CHPs about the appropriateness of the dwelling(s);
- the developer to consult with the CHP in the detailed design of the dwellings to ensure they are appropriate;
- preparation and public exhibition of a legal agreement for the dedication / transfer of dwellings to ensure appropriate governance arrangements are in place to secure the delivery of affordable housing in perpetuity; and
- assessment of potential financial risks to council if a future CHP owner cannot be secured.

This will impact on development timeframes and will limit the City’s ability to meet the assessment timeframes set out in the Minister’s Expectations, July 2024.

Where the proponent voluntarily decides to provide affordable housing as part of their development and enter into a planning agreement as part of a planning proposal, there is considerably more time to accommodate and resolve the above requirements prior to the initiation of a planning proposal.

Dedication to the City

Where dedication is required, it is the City that takes the risks, costs and legal obligations that come with a real property transfer.

Once transferred to the City, the City can transfer or sell property to a CHP, however this is contingent on the CHP remaining willing to accept it. Considerations include the likely costs of ownership (strata costs and long-term maintenance requirements) compared to the likely rent income from the dwelling (see example provided in Attachment H to the subject report).

It is not easily quantified what cost may arise from varied ownership. In practice only a very high-level estimate can be made of strata costs at the planning proposal stage, noting that detailed information about the development is not typically provided with a planning proposal, for example, information about pools, gyms and concierge services. It is also impossible to forecast the risk of special levies that come with strata, particularly where there are defect issues with the build. The approach therefore comes with risks.

In comparison, where the proponent voluntarily decides to provide affordable housing as part of their development and enter a planning agreement at the planning proposal stage, there is more time and scope to partner with a registered CHP who is willing to manage the affordable housing, manage the risks and legally secure the agreement.

On balance the post-exhibition changes ensure that Council is not subject to undue risk, that CHPs are not burdened with inappropriate stock, that CHPs continue to benefit from monetary contributions that can be leveraged to deliver a pipeline of affordable dwellings, and that development processes are not slowed.

Availability of land

Some Councillors were concerned that monetary contributions rely on CHPs being able to purchase sites to develop affordable housing.

However, the City's current affordable housing policy and distribution plan provides CHPs with funding certainty that keeps pace with the cost of delivery. These CHPs are better able purchase sites and can proactively plan for opportunities to build dedicated affordable dwellings at scale and at lower cost than market housing developers.

Furthermore, preferential zoning for affordable housing in some employment areas gives CHPs access to land not available to market residential developers and puts CHPs at a competitive advantage for development of that land.

The approach of other councils

Several surrounding councils have affordable housing schemes in their local environmental plans, for example:

- Willoughby Council - the LEP applies to limited parts of the LGA and allows for either dedication and monetary contribution in the LEP clause, however the supporting policy states a preference for dedication which Council holds;
- Waverley Council - the LEP requirement applies to the whole LGA and allows either for dedication or monetary contribution, however the supporting policy document express a preference for built units;
- Randwick Council – the LEP requires:
    - dedication for residential development in certain (limited) investigation areas and in the Kensington and Kingsford town centres; and
    - monetary contributions for co-living, serviced apartments, seniors housing (i.e. development that can't be subdivided);

- Inner West - the LEP requirement applies to the “Bays West Precinct” and allows monetary contribution only.

The most recently available information indicates that, combined, the abovementioned surrounding councils own 148 affordable housing dwellings (an average of about 37 dwellings per council). It has not been possible to verify how each of these dwellings has come into each council’s ownership and it is assumed that some may have resulted from contribution requirements in LEPs, but many would have likely been negotiated in a planning agreement.

Noting that as at 12 May 2026 there were a total of 947 affordable housing dwellings in the City of Sydney LGA that resulted directly from affordable housing contributions, and a further 1,402 affordable housing dwellings in the development pipeline of the current CHPs who receive affordable housing contributions, the scale of the City’s affordable housing program is at a scale not directly comparable to schemes operated by other councils.

Over the last 20 years, more than 40,000 dwellings have been built in the City of Sydney, compared with around 12,000 in the Inner West, 8,000 in Randwick, 4,000 in Willoughby and 4,000 in Waverley. The City will continue to deliver substantially more housing supply than adjoining council areas, with a housing target to 2029 of 18,900 private dwellings compared with targets in other areas ranging from 2,400 private dwellings in Waverley to 7,800 in the Inner West.

In many cases the abovementioned contribution schemes apply to only small areas within the council area and even if schemes were expanded to cover the entire LGA area, projected housing supply in these areas is unlikely to generate enough funds for CHPs to develop at scale like they do in the City.

On review and consideration of submissions, the high volumes of affordable housing generated by the City’s scheme are not well suited to the dedication model. Likewise, the monetary contribution model may not be as effective in lower growth areas.

<u>Consideration of submissions</u>

The planning proposal was prepared in direct response to a Resolution of Council that directed the CEO to explore options for a planning proposal to require affordable housing contributions be satisfied by dedication.

The City’s review identified the limited circumstances where mandated dedications might be acceptable, notwithstanding the strong preference for monetary contributions already expressed by CHPs and in the economic study. The planning proposal and draft Program provided a proposed framework for mandated dedications to seek feedback through public exhibition.

This proposal was placed on public exhibition in accordance with the resolution of council and in order to test whether the City’s proposal was feasible.

Submissions received from both CHPs, developers and industry generally do not support mandating a dedications framework, noting that in-kind built dwellings should be voluntary. Generally, CHPs are concerned about the impact the approach would have on monetary contributions, that they say will deliver the most and most appropriate housing, and developers and industry say that the mandated dedications approach will slow the development process.

The City did not receive submissions from small scale CHPs seeking dedications.

In support

Other Councillors expressed support for the Officer's proposed post exhibition changes, noting the following comments:

- it maximises affordable housing outcomes in a realistic and pragmatic way;
- the changes reduce the risk that we could stall development and housing supply noting that development is ultimately required for contributions to be made;
- the voluntary opt-in approach to in-kind stock allows time to properly negotiate a VPA with an engaged applicant, with appropriate consultation with CHPs – and does not otherwise slow development (potentially with an unwilling applicant);
- we are working with an imperfect system and the proposed changes are focused on delivering as much affordable housing as fast as possible. While seeking diversity in the CHPs who own stock is a valuable goal, the City should focus on maximising the scale and speed of delivery. The bigger CHPs will continue to make the most impact in the City as quickly as possible;
- the proposed changes appropriately respond to matters raised in submissions (both CHPs and developers) and the concerns raised by speakers; and
- the economic situation has obviously changed even in the last few months, recognising a vastly different situation between when the changes were prepared and publicly exhibited and now. We must respond to these changes and take a realistic approach. While delaying the increased rate isn't ideal, submissions and analysis tell us this is needed. If development does not proceed then affordable housing contributions do not get paid.

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Approved

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