Urban Taskforce
AUSTRALIA

13 July 2023

The Hon John Ajaka
Chief Executive Officer
Liverpool City Council
Locked Bag 7064
Liverpool BC 1872

Dear Mr Ajaka

Draft Aerotropolis Development Contributions Plan 2023

Thank you for the opportunity to make a submission to this review. The recommendations contained within this submission have been made to Penrith City Council.

The Urban Taskforce acknowledges the need for the Aerotropolis precincts to be properly serviced by local and state infrastructure, and support in principle that new development providers should contribute to this.

While the latest draft Contributions Plan's proposed rate of 4.5% is a welcome reduction from the original announced rate of 6.5%, it still represents a significant impost on new housing and new jobs in the region.

The proposed contribution cannot be assessed in isolation but must be looked at as one of several new charges on development, namely the new Housing and Productivity Contribution (which will in time replace the Western Sydney Aerotropolis Special Infrastructure Contribution (SIC), along with the proposed Sydney Water Draft DSP charges. It is the cumulative impact of these charges with which Urban Taskforce is most concerned.

The cumulative impact of these levies and charges, on top of other Federal and State taxes, represent a significant cost to delivering new jobs and new housing.

Both Liverpool and Penrith City Councils have been placed in the unenviable situation of proposing a new set of infrastructure contributions, largely due to the former Government's opinion that new much of the new infrastructure required in Western Sydney should be met through charges on new development.
Urban Taskforce members with interests in the Aerotropolis are advising the combined cost of proposed State and local contributions plans will render many developments unfeasible.

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There is a risk that some of the anticipated benefits of the new airport – new housing and new business, may fail to materialise as a result not just of the section 7.12 contributions, but as a result of the cumulative impacts of an array of infrastructure taxes that fall on new entrants – whether they be new homeowners and new commercial enterprises.

As a consequence, some investors will look to other jurisdictions for more commercially beneficial opportunities. This will be to the detriment to the success of the Aerotropolis and the much-needed new employment opportunities in Western Sydney.

The growth of the economy associated with population growth in Sydney's west comes with benefits and costs. Under the current arrangement, whilst Sydney, NSW and indeed the entire nation will benefit from the new airport and the surrounding employment opportunities, the cost of local infrastructure for this has been unfairly placed upon two Sydney councils, Penrith and Liverpool. They are shouldering significant costs that should be borne more broadly – across NSW and Australia. As a result, we appreciate that Council has no choice but to impose these charges which will, inevitably, be passed onto new homeowners and new businesses.

Impacts of rezoning land prior to acquisition of infrastructure corridors

The cost impacts of the section 7.12 charges have been made all the more harmful due to the actions and decisions of the former State Government to up-zone land surrounding the new airport without at first acquiring the corridors for the infrastructure.

This decision alone has increased the cost of acquiring infrastructure corridors ten-fold. This was a State Government decision and the deleterious impacts should be resolved at a State Level.

Recommendation 1 – that the costs associated with the acquisition of land for infrastructure corridors are discounted by 90% when determining the contributions plan. New employment and home buyers should not have to pay for errors made by State Government planners.

The need for greater State and Federal Government Assistance

The significance of the Aerotropolis Precinct, and decisions noted above to rezone lands that have added considerable costs to land acquisition, both Liverpool and Penrith City Councils should write to the NSW Minister for Planning and Public Spaces, the Hon Paul Scully MP, and Federal Minister for Transport and Infrastructure, the Hon Catherine King MP, requesting an accelerated infrastructure package to fund local infrastructure items associated with the new airport and Aerotropolis so as to reduce reliance on section 7.12 charges.

Section 7.12 charges are normally levied at a rate of up to 3%. The State and Commonwealth should provide a further infrastructure package to ensure Liverpool and Penrith City Councils can restrict their section 7.12 charges to 3%, which is the maximum rate levied by the City of Sydney in its Central Sydney DCP 2020 (another precinct with State and National significance).

The combined contributions in both LGA's are $2.854 billion comprising of:

- $2.031 billion for Liverpool with a proposed contribution rate of 4.5%) and
- $822.5 million for Penrith LGA component of Aerotropolis precincts with a proposed contribution rate of 5.5%).

If the Federal and State Government were to reduce the impost of any future DCP for the Aerotropolis to 3% contributions rate in both local Government areas, this would require the following funding package:

Liverpool:	$677 million
Penrith :	$374 million
Total:	$1.051 billion

Recommendation 2 - that Liverpool City Council, in conjunction with Penrith City Council, write to the NSW Minister for Planning and Public Spaces and the Federal Minister for Transport and Infrastructure seeking an accelerated infrastructure package in the order of $1.051 billion to help affray the costs of providing local infrastructure associated with the Aerotropolis and the new Western Sydney Airport and ensure the contribution rate is no more than 3%.

Shifting the payment of infrastructure levies from CC to OC

Another means of ameliorating the impacts would be to shift the timing of the S. 7.12 payment of the contributions from construction certificate (CC) to occupation certificate (OC).

Cashflow is at its lowest point at CC. It is the wrong time to be levying infrastructure contributions. Banks are often reluctant to increase loan outgoings at CC – but once they get to OC, full settlements are about to occur and this is far less of a problem.

This issue has been accentuated in the present financial circumstances facing the development and construction sector. There is a real risk that charges coming at the CC stage will trigger reappraisals from the banks over the financial risks associated with many developments.

Council may be left in a situation where is receives less income from developers as a result of the withdraw of funding. This is a lose-lose situation.

Recommendation 3 – that Council amend the payment trigger of the section 7.12 charges from the time of the issuing of the construction certificate to the issuing of occupation certificate.

To further offset the cost impacts of the proposed contributions, it is also recommended that Council supports the staging of the section 7.12 payments in line with any staged occupation certificates.

Recommendation 4 - that Council allow the staging of the section 7.12 payments in line with any staged occupation certificates.

Use of Capital Investment Value

Urban Taskforce members have raised general concerns over the application of a Capital Investment Value (CIV) within the draft Plans. The use of CIV is resulting in some considerable contributions that are disproportionate to expected demands on infrastructure (noting that section 7.12 contributions do not require nexus to be established). In a number of cases, the CIV basis for calculating the contributions is not a good indicator of infrastructure requirements.

There should be a mechanism whereby proponents can appeal to the responsible authority for the levying lower contributions in case of exceptional circumstances.

Recommendation 5 - that Council allows for an appeal mechanism in the case of limited exceptional circumstances for proponents to argue for lower contributions where the capital investment does not match the infrastructure requirements.

Local roads, collector roads and open space roads

Members have advised that the approach to these roads is not consistent, which leads in some cases to other precincts cross subsidising those in the Aerotropolis.

Given that the collective cost of these roads is $320 million – more than 15% of the total cost of the DCP, the costs associated with local roads, collector roads and open space roads should be reviewed, with cost apportioned on a precinct- by-precinct basis.

Recommendation 6 - that Council review their approach to attributing costs to roads and apportion costs on a precinct-by-precinct basis.

Exempt tertiary education establishments from contributions

The 2020 draft Plan noted the following uses and organisations as exempt from development contributions:

- TAFE establishments.
- health services facilities owned or operated by a public authority.
- public open space.
- seniors housing or affordable housing (if carried out by or on behalf of an authorised service provider).

Urban Taskforce is advised that Western Sydney University made a submission requesting that tertiary education establishments be included as exempt from developer contributions.

In the draft plans, exemption from development contributions is not addressed and will have implications for education and other providers of public benefits who seek to establish a presence in the Aerotropolis.

Recommendation 7 – that the draft Aerotropolis DCP explicitly exempt tertiary education establishments form developer contributions.

Encourage use of voluntary planning agreements

Urban Taskforce notes the interim nature of the section 7.12 plan and that they may ultimately being replaced by future section 7.11 contribution plans. This creates great uncertainty for developers.

Infrastructure planning and delivery is best supported by collaborative partnerships based on commonly agreed evidence as well as shared goals and values. Voluntary planning agreements when crafted along these lines ensure clarity for all stakeholders.

Planning agreements can be a win-win for both sides, and it should be noted that from Council's perspective, a well-defined planning agreement can reduce its financial risks, as Council must underwrite a Contributions Plan.

Whilst a clause notes the ability to switch off a contributions plan in favour of planning agreements, there appears to be a reluctance by Council to recognise the mutual benefits that can flow from a well craft, transparent planning agreement.

Urban Taskforce supports the encouragement by Council for planning agreements, which will effectively switch off section 7.12 plans.

Recommendation 8 - that Council, through the finalising of the Aerotropolis DCP, formally commit its support for and encourage of the development of voluntary planning agreements where appropriate.

Timely delivery of infrastructure

Urban Taskforce members have also expressed ongoing concern with the lag times between payment of levies and delivery of the related infrastructure. There is a reasonable expectation that monies paid for development enabling infrastructure should adhere to a clear timetable.

Given the magnitude of the levies and the infrastructure to be delivered, both Penrith and Liverpool City Councils need to consider options such as debt financing, which would require ongoing conversations with NSW Treasury, who are historically reluctant for Councils to incur significant debt.

Recommendation 9: that both Councils engage with NSW Treasury to ensure appropriate financial arrangements are in pace to ensure the timely delivery of infrastructure.

Mapping Inaccuracies

Finally, the Urban Taskforce has been advised on a number of inaccuracies in relation to the Draft Contributions Plan, particularly when it comes to mapping. As per the relevant clause of the Plan, these inputs should be regularly reviewed when new information comes to light. We suggest an ideal time to do that is finalising this draft.

Recommendation 10 - that Council review the mapping associated with the Contributions Plan to ensure its accuracy and that it is up to date.

Conclusion

The logic for the broad sharing of the costs associated with the new Western Sydney airport has already been established with massive infrastructure contributions being made to the development of the airport, the new Metro line and the road upgrades.

Urban Taskforce members are confused as to why Local Infrastructure was not also anticipated and contribution schemes developed with a view to the cumulative impact on development as well as the long term benefit derived by the Greater Sydney, NSW and Australian economies.

The State Government's manifest failure to plan for or co-ordinate either the funding or delivery of infrastructure to support this massive opportunity for our nation is lamentable.

The Urban Taskforce is willing to collaborate with Liverpool and Penrith City Councils in continuing a conversation on State and Federal Government contributions to the funding of local infrastructure to help ensure these important precincts are developed and significant employment opportunities for Western Sydney can be realised.

Should you wish to discuss this submission, please contact the Urban Taskforce's Head of Policy, Planning and Research, Mr Stephen Fenn, on 9238 3969 or by email stephen@urbantaskforce.com.au

Yours sincerely

Tom Forrest
Chief Executive Officer