

COUNCIL AGENDA ADDENDUM

ORDINARY COUNCIL MEETING

25 October 2023

FRANCIS GREENWAY CENTRE,
170 GEORGE STREET, LIVERPOOL

LIVERPOOL
CITY
COUNCIL



ADDENDUM ITEMS

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PLAN 07

**Draft Aerotropolis S7.12 Contribution Plan - Post
Public Exhibition and Ministerial Submission**

Strategic Objective	Evolving, Prosperous, Innovative Promote and deliver an innovative, thriving and internationally recognised city
File Ref	351557.2023
Report By	Claire Scott - Coordinator Contributions Planning
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

This report is to provide Council's with an update and revised version of the Draft Liverpool City Council Aerotropolis s7.12 Contributions Plan and Background report (**Attachment 1**) post public exhibition period.

The Report will further seek support from Council to submit the Draft Contributions Plan to the Minister Planning and Public Spaces, NSW Department of Planning for an internal review and a Ministerial Direction in accordance with *Environmental Planning and Assessment Act 1979:*

section 7.12 (5)

(5) the regulations may make provision for or with respect to levies under this section, including –

(a) the means by which the proposed cost of carrying out development is to be estimated or determined, and

(b) the maximum percentage of a levy.

and:

section 7.17(1)(d)

(1) The Minister may, generally or in any particular case or class of cases, direct a consent authority as to –

(d) The type or area of development in respect of which a condition under section 7.12 may be imposed and the maximum percentage of the levy

Council at its ordinary Council meeting held 31 May 2023, resolved (MIN: 179769.2023)

'That Council:

- 1. Exhibit the draft Liverpool City Council Aerotropolis 7.12 Contributions Plan (2023) and background report (attachment 1) for a minimum 28 days, in accordance with the provision of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2021;*

2. *Provide a further report to Council, on completion of the public exhibition period; and*
3. *That the three levels of government work together to forward fund the infrastructure delivery as part of the contributions plan.'*

Council formally exhibited the *Draft Contributions Plan* commencing 15 June 2023 to 14 July 2023 (COB). The draft Contributions Plan and the background document were made available to the public on the Council's website and via the NSW planning portal page. Owners of land effected by the future application of the Draft Contributions Plan were notified via written correspondence (19 June 2023).

During the exhibition period, Council received seven (7) submissions and one (1) submission post exhibition. A copy of the submission and proposed changes to the plan are noted in the '*Draft Aerotropolis s7.12 Contributions Plan - Submission table*' (**Attachment 2**).

In addition, Council sought a review on the administrative and legislative application of the draft Contribution Plan from a legal firm. This review identified some minor changes to the draft Contribution Plan and will ensure that the Contributions Plan is lawful and without discrepancy in its future application.

Further analysis on costs and land acquisition was undertaken which increased the plan to identify a levy of 4.6%

This report details further consideration in respect to the management and risk of matters that are parallel to the operation and timing of a contribution plan.

RECOMMENDATION

That Council:

1. Notes the post exhibition report of the draft Liverpool City Council s7.12 Aerotropolis Contribution plan fulfilling the requirement of Min179769.2023 (2) '*provide a further report to Council on completion of the public exhibition period*';
2. Support the minor administrative amendments and changes to the draft Liverpool City Council s7.12 Aerotropolis Contribution Plan and Background report as generally expressed within in this report;
3. Acknowledge the minor levy increase of 0.1% (levy now 4.6%) which captured the increase in land values within the Aerotropolis precinct;
4. In accordance with *Environmental Planning and Assessment Act 1979, section 7.12 (5) and Environmental Planning and Assessment Regulations 2021, section 7.17(1)(d)* forward the final *Draft Liverpool City Council s7.12 Aerotropolis Contribution Plan 2023* to the Department of Planning and Environment for assessment and Ministerial approval; and
5. Receive a further report, post Ministerial assessment and recommendation, of the draft Liverpool City Council s7.12 Aerotropolis Contribution Plan.

REPORT

Background:

In December 2019, the Department of Planning Industry and Environment (DPIE) released for comment the draft Western Sydney Aerotropolis Plan (WASP). The WASP detailed the vision and planning approach for the Aerotropolis, including the provision of state and local infrastructure to service the area.

The WASP presents a once in a lifetime opportunity to transform the landscape of the Western Parkland City through city shaping infrastructure, such as the Western Sydney (Nancy Bird-Walton) International Airport and the north-south rail link. There is a global opportunity for economic investment to create thriving aviation based business and residential communities.

The scale, scope and importance of this area requires a planning approach that includes mechanisms for the delivery of local and regional infrastructure funding. Infrastructure to support the Aerotropolis is vital to a sustainable success and the Western City, more generally.

Council has been proactive in the preparation of a contributions framework to support the Aerotropolis, in conjunction with Penrith City Council. It is envisaged that the Aerotropolis Contribution Plan (CP) will ensure infrastructure delivery better aligns with development assessment, prevents unnecessary delays to development approvals due to a lack of infrastructure planning and provides Council with a strong understanding of our baseline infrastructure needs to be able to effectively negotiate planning agreements where required. A section 7.12 plan (percentage rate levy) was chosen as it allows Councils greater flexibility for infrastructure delivery.

Liverpool and Penrith prepared a consolidated s7.12 Contribution plan that applied to the whole Western Sydney Aerotropolis Precinct Planned area. The first draft Contribution Plan (2020) was initially prepared using land use and built form assumptions based on the Western Sydney Aerotropolis Plan, given there were no specific details yet finalised regarding development outcomes for the Aerotropolis. The exhibited draft plan was prepared based on available information and industry accepted standards and benchmarks.

Under the first draft Aerotropolis Contribution Plan (2020), the total cost of local infrastructure to meet the needs of the initial precincts of the Aerotropolis for both Penrith and Liverpool Councils, was estimated at \$2.6bn. A percentage rate levy of 6.5% was proposed which was an aggregate rate from rates applied across each of the six areas of the draft plan.

At its Ordinary meeting of 27 October 2020, Council resolved to publicly exhibit the joint Liverpool Council and Penrith Council *draft Aerotropolis s7.12 Contributions Plan*. Following this, the Department of Planning & Environment (DPE) commenced the exhibition of the draft Precinct Plans, the Draft Special Infrastructure Contribution Plan (SIC) and the draft Development Control Plan for the Aerotropolis.

Since the exhibition of the joint draft Aerotropolis Contribution Plan in November 2020, two key changes occurred to the planning framework for the Western Sydney Aerotropolis that required significant amendments to the draft Aerotropolis CP Plan. These changes were as follows:

- Finalisation of the planning package for the Western Sydney Aerotropolis; and
- Sydney Water being appointed as the Regional Stormwater Authority.

The release of the final planning package for the Aerotropolis provided Councils with the certainty of the land use planning and infrastructure outcomes for the Aerotropolis, enabling Councils to review and update the infrastructure and costing within the exhibited draft CP.

The final planning package included the following:

- Amendments to the SEPP (Precincts – Western Parkland City) 2021);
- Finalised Precinct Plan; and
- Finalised Development Control Plan

Amendments to State Environmental Planning Policy (SEPP) (Precincts – Western Parkland City) 2021

An amendment to SEPP (Precincts – Western Parkland City) 2021 introduced new land acquisition requirements for Council. From November 2022, Council became the acquisition authority for land identified in the SEPP as ‘Open Space and Drainage’ lands.

As the SEPP nominated Council as the acquisition authority, the contribution calculations required an amendment to identify and specifically include land acquisition and embellishment costs for the land, as no other funding mechanism was available. There was also further clarity to acquisition land and Sydney Water responsibility.

Western Sydney Aerotropolis Precinct Plan

The final Precinct Plan defined the extent of the road and active transport networks within the Aerotropolis and determined what parts of the network would need to be delivered by Council.

Key provisions include the following:

- Transport Network Plan and Street Hierarchy Map defined the extent of the sub-arterial road network and locations where bridges and culverts are anticipated; and
- The Blue Green Framework and Active Transport Network Plans defined the extent of land to deliver the off-road pedestrian footpaths and cycleways and where the active transport network crosses creek lines that require bridges.

Council has utilised these provisions to determine the amount of land to be acquired, methodology for construction, and proposed minimum embellishment costs.

Western Sydney Aerotropolis Development Control Plan 2022

The adopted Development Control Plan contained new development controls for the road network that required the costing to be reviewed. These controls include the following:

- Road profiles that contained a wider road reserve to address tree canopy and water-sensitive urban design requirements (WSUD) which increased the cost of road construction and maintenance due to a greater level of landscaping within the road reserve than traditional road profiles;
- The inclusion of riparian road corridors and increased landscaping to achieve water control target; and
- Minimum street tree requirements and engineering designs for street tree pits.

Sydney Water – Regional Stormwater Authority

On 25 March 2022, Sydney Water was appointed as the Regional Stormwater Authority for the Western Sydney Aerotropolis. As the Regional Stormwater Authority, Sydney Water will be responsible for delivering, managing and maintaining the regional stormwater network, along with the drinking water, wastewater and recycled networks.

The appointment of Sydney Water as the regional stormwater authority directly impacts the draft Contribution Plan (prepared 2020), as the plan included costs of \$1.07bn for the provision of stormwater infrastructure to be delivered, managed, and maintained by Councils.

In order to progress in finalising the draft CP and facilitate development in the Aerotropolis, Councils have used the information available to make assumptions on stormwater delivery and costs that are required to be included in the plan. These assumptions have been assessed by Council's consultants. These assumptions have been based on the available plans prepared by Sydney Water and include Stormwater Management Framework for Aerotropolis and Mamre Road Precincts and Innovative Water Management for the Aerotropolis Precinct.

Sydney Water and DPE Water have developed a governance structure (roles and responsibilities) for the implementation of the regional stormwater scheme. This has been reviewed by Council officers and our consultants to understand Council's role in the scheme and if any stormwater related infrastructure should be included in the draft Aerotropolis CP. Under the governance structure, Council would be responsible for delivering or facilitating road drainage infrastructure (street pits and pipes). These costs have been accommodated as part of the overall road construction costs.

Land identified as 'Open Space and Drainage' under SEPP (Precincts – Western Parkland City) 2021 is local water management and does not form a functioning component of the

regional stormwater scheme. However, 'Open Space and Drainage' land is directly adjacent to regional stormwater assets and may include riparian corridors and flood impacted land. To facilitate Precinct Plan outcomes for an active transport network, costs for the embellishment of this land have been accommodated in the revised Contribution Plan. As the stormwater strategy is yet to be released, there is a possibility that drainage works may need to occur within this land. Should Sydney Water need to link stormwater basins via pipes or drainage channels within the 'Open Space and Drainage' land, Sydney Water would need to seek easements across Council's land and all construction costs would need to be accommodated by Sydney Water.

All other elements of the regional stormwater scheme are intended to be delivered by Sydney Water or developers. No costs or contingencies, other than those discussed above, have been included in the plan for the delivery of this stormwater infrastructure. Including costs or contingencies for the provision of stormwater infrastructure in a plan would be 'double dipping' as it is understood that these costs will either be covered by a Sydney Water servicing charge or paid for by the developer.

Until such time as the governance framework relating to the management of stormwater is formally signed by all parties and the stormwater strategy is released, there remains a risk that the draft plan may not account for all the infrastructure Council is obligated to deliver to support the stormwater scheme. This risk has been minimised as far as possible with the information available to Council, in order to progress the draft CP and facilitate development. During the exhibition period, we will seek to work with the relevant agencies to formalise the governance framework.

Council has not considered or included any land that is not identified in the precinct plan land acquisition map, which may as a result of the acquisition create land locked or undevelopable parcels of land in private ownership.

One Plan into Two – Liverpool City Council Aerotropolis Section 7.12 Contribution Plan

The first contribution plan prepared and exhibited for the Aerotropolis Precinct was a collaborated plan across both Liverpool LGA and Penrith LGA. This exhibited draft plan had an aggregated levy of 6.5%. Since the preparation of this draft Plan, Councils agreed to separate the plan to create two plans to apply to land within each LGA. The key reason behind the separation was simply the application and administration of an endorsed plan being the responsibility for each Council.

The Contribution Plan, with a levy above the legislative maximum, will require an amendment to the Environmental Planning and Assessment regulations, via a Ministerial Direction. Therefore, each Council required a plan that they could solely control and make decision under without impacting or effecting their neighboring Council. Councils agreed that the Plans are prepared, calculated and consistent with a similar methodology and framework to ensure

consistency for all developers. Therefore the project group was maintained and Council officers continued to work collaboratively with the appointed consultants.

Following post exhibition of the first plan in November 2020, the consideration of a new planning structure to the lands as well as proposal to separate the plan by LGA, Council revised the plan to be further known as the *Draft Liverpool City Council Aerotropolis Section 7.12 Contribution Plan 2023*, and would only apply to aerotropolis precinct lands within the Liverpool City Council area.

Due to the precinct planning framework, and Council previously exhibiting a draft contribution plan that had a levy that applied to both Liverpool and Penrith Councils, it was necessary to report the comparable differences between the first exhibited LCC & PCC plan and the Liverpool plan as whole precinct plans,

Public Exhibition and Community Consultation

Council at its ordinary Council meeting held 31 May 2023, resolved (MIN: 179769.2023)

'That Council:

- 1. Exhibit the draft Liverpool City Council Aerotropolis 7.12 Contributions Plan (2023) and background report (attachment 1) for a minimum 28 days, in accordance with the provision of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2021;*
- 2. Provide a further report to Council, on completion of the public exhibition period; and*
- 3. That the three levels of government work together to forward fund the infrastructure delivery as part of the contributions plan.'*

Council formally exhibited the *Draft Contributions Plan* commencing 15 June 2023 to 14 July 2023 (COB). The draft Contributions Plan and the background document were made available to the public on the Council's website and via the NSW planning portal page. Owners of land effected by the future application of the Draft Contributions Plan were notified of the public exhibition via written correspondence (19 June 2023).

The Liverpool Draft Contributions Plan was exhibited at the same time as Penrith City Council Draft Aerotropolis Contributions Plan. This ensured a successful notification period to all landowners across both Liverpool and Penrith local government boundaries. It also provided a benefit by overlapping consultation with industry representatives and Agencies. Council notified key Agencies via email and/or provided updates to relevant key agency stakeholder during attendance at meetings.

During the exhibition period, Council received seven (7) submissions and one (1) submission post exhibition. A copy of the 'Draft Aerotropolis s7.12 Contributions Plan – Submission Table' summary sheet is attached separately to this report (**Attachment 2**).

The summary table grouped themes aligned to the concerns identified in the submissions.

In addition, Council sought a review on the administrative and legislative application of the draft Contribution Plan from a legal firm. This review identified some minor changes to the draft Contribution Plan and will ensure that the Contributions Plan is lawful and without discrepancy in its future application.

Engagement with the Department of Planning and Environmental (DPE)

Council consulted with Department Planning and Environment (Infrastructure team) in the preparation of the background report and drafting of the Contributions Plan. It was important to involve DPE early into the review process to ensure due process is being adhered to and that matters could be addressed accordingly.

In pursue of *with Environmental Planning and Assessment Act 1979:*

section 7.12 (5)

(5) the regulations may make provision for or with respect to levies under this section, including –

- (a) the means by which the proposed cost of carrying out development is to be estimated or determined, and*
- (b) the maximum percentage of a levy.*

and:

section 7.17(1)(d)

(2) The Minister may, generally or in any particular case or class of cases, direct a consent authority as to –

- (e) The type or area of development in respect of which a condition under section 7.12 may be imposed and the maximum percentage of the levy*

Council has amended the exhibited draft Plan (May 2023) and now seeks via a Council report, a recommendation to support the submission of the Draft Contribution Plan to the Minister Planning and Public Spaces. The DPE Infrastructure Department will review and assess the Draft Contribution Plan prior to making a recommendation to the Minister. As Council is seeking a levy higher than the legislation (EP&A Act, s7.12(5)(b)), a Ministerial Direction is required to amend the EP & A Act and Regulations.

Precinct Wide Revised Plan Costs

For the purpose of history and a comparison to the differing versions of the contribution plan, the table below outlines the changes to the cost of infrastructure provision for the Aerotropolis precinct. The exhibited November 2020 plan was the combined Liverpool and Penrith Council contribution plan. The May 2023 exhibited plan was the separation of the plan into the two local government administrative areas and the Final October 2023 plan is the final draft version, post public exhibition. The Final October 2023 Contribution Plan is the plan (and background documentation) which is referred to in the recommendation to this report.

Infrastructure	Exhibited Nov 2020	Exhibited May 2023	Final Oct 2023	Changes
Road & Stormwater	\$726.8m	Liverpool - \$495m LCC and PCC - \$821m	Liverpool - \$495m LCC and PCC - \$821m	Increased costs on balance: <ul style="list-style-type: none"> ▪ removal of stormwater infrastructure; ▪ an increase in the extent and widths of roads; and ▪ Inclusion of bridges over creeks. ▪ Inclusion of existing road requiring augmentation
Social, open space & recreation	\$203.1m	Liverpool - \$298m LCC and PCC - \$407m	Liverpool - \$298m LCC and PCC - \$407m	Increased costs: <ul style="list-style-type: none"> ▪ an increase in embellishment costs; and ▪ inclusions of active transport infrastructure in open space.
Land	\$1.6bn	Liverpool - \$1.2bn LCC and PCC - \$1.6bn	Liverpool - \$1.3bn LCC and PCC - \$1.6bn	Increased costs through: <ul style="list-style-type: none"> ▪ an increase in land values; ▪ an increase in extent and widths of roads; and ▪ inclusion of SEPP zoned open space and drainage land.
Total	\$2.5bn	\$2.8bn	\$2.8bn	

A detailed discussion on the costs of the plan is provided below:

Roads Construction Cost

The final draft contribution plan includes costs to construct some of the sub-arterial roads as well as bridges and culverts and collector roads. As the SIC identified no funding for a primary arterial road in the Agribusiness precinct, the contribution plan has made an allowance for this road to be construction as a sub arterial road.

Proposed local road located along existing road alignments within the Aerotropolis Core and the Liverpool component of the Badgerys Creek precinct have been included. This is to ensure that local roads can be upgraded to match the proposed typical section outlined in the DCP.

The final Liverpool Contribution Plan (**Attachment 1**) proposes to generally fund the following:

- Aerotropolis Core Road – 37,534lm*
- Aerotropolis Core Land – 708,655 sqm*
- Badgerys Creek Road – 8220lm*
- Badgerys Creek Land – 157,916sqm*
- Agribusiness Road– 9228lm*
- Agribusiness Land – 345,815 sqm*
- Bridges – 3*
- Culverts – 15*

Precinct	Road Infrastructure - Exhibition	Road Infrastructure – Final
Aerotropolis Core	\$290,958,085	\$290,958,085
Badgerys Creek – Liverpool	\$57,946,080	\$57,946,080
Agribusiness - Liverpool	\$146,398,300	\$146,398,300

Precinct	Road Land - Exhibition	Road Land - Final
Aerotropolis Core	\$362,650,620	\$362,742,035
Badgerys Creek – Liverpool	\$78,432,380	\$78,438,790
Agribusiness - Liverpool	\$81,750,870	\$107,211,595

Open Space (and drainage) and Social Infrastructure Cost

The final draft Contribution Plan includes the acquisition and embellishment of land for the purposes of open space, including local open space and drainage land, as required under the SEPP.

The infrastructure cost also includes some land identified in the SEPP precinct plan (SP2). Whilst this land is not specifically identified in the land acquisition map, it has been identified in strategic precinct planning policy framework for the provision and demand of social infrastructure. As a contribution plan is the only mechanism to fund land acquisition of the land, it is paramount to identify the funding purpose of this land. The owner of the land is subject to the same terms of acquisitions such as a hardship claims, and Council is responsible for the acquisition under these terms. However, whilst the cost has captured the land acquisition, there are no inclusions for costs associated with the provision of the facility.

The embellishment costs listed within the draft Contribution Plan allow for the provision of the active transport network across Council owned open space land. Costings in the draft Contribution Plan have also factored in the provision of the active transport network on Sydney Water land as Sydney Water can only fund basic embellishment of their land through their service charges and are unable to make allowances for this form of 'social' embellishment. The delivery of social / active transport infrastructure on Sydney Water land requires further negotiation with Sydney Water. There have been preliminary discussion proposing a Memorandum of Understanding for cross-collaboration of infrastructure delivery, management and maintenance between Sydney Water and Council.

General embellishment of active transport network land will include the following:

- Pedestrian pathways;
- Cycleways;
- Bridges;
- Lighting;
- Picnic Facilities, tables, and chairs; and
- Rehabilitation of riparian corridors.

Social Infrastructure Contributions

A Social Infrastructure Needs Analysis (SINA) was prepared as part of the preliminary planning of the contribution plan, to identify the social infrastructure required to support development of the initial precincts in the Aerotropolis. Generally, the Liverpool catchment of infrastructure provision identified in the SINA included the items listed in the below table. However not all items are to be identified and funded under the plan. Further calculations on the provision and quantities funded under the plan are identified in section 6.2 and 6.3 of the background report provided in **Attachment 1**.

Infrastructure Type	Infrastructure Asset	Location
Sports Field	1 x football field	Aerotropolis Core
Sports Field	2 s district sports	Aerotropolis Core
Sports Field	1 x indoors sports	Aerotropolis Core
Sports Field	1 x aquatic / swimming	Aerotropolis Core
Sports Field	2 x youth focused outdoor	Aerotropolis Core
Sports Field	Netball courts	Agribusiness
Sports Field	14 x local parks	Aerotropolis Core
Sports Field	4 x district parks	Aerotropolis Core
Sports Field	1 x local park	Badgerys Creek
Sports Field	3 x local parks	Agribusiness
Sports Field	1 x district park	Agribusiness
Community Facilities	3 x local community spaces	Aerotropolis Core
Community Facilities	1 x district community centre collocated with the district library	Aerotropolis Core
Childcare	1 x council owned childcare centre	Aerotropolis Core
Childcare	1 x council owned childcare centre	Agribusiness
Cultural Facilities	2 x local cultural facilities	Aerotropolis Core
Library	2 x district libraries 9one co located to maker spaces and / or community services and the other is a joint library with the multiversity	Aerotropolis Core
Library	1 x branch library	Aerotropolis Core
Library	1 x branch library	Agribusiness

The provision of Social Infrastructure has not changed from the exhibited plan. However, there have been some increases in land values. It is also important to note that whilst items are identified and considered in the s7.12 plan, the proposed location or particulars of the facility (other than the broad reference noted above) the social infrastructure location and detail is yet to be determined and will require further planning and assessment. This statement could generally apply to all infrastructure, when considering an infrastructure plan against a high level precinct plan.

Total Cost of Infrastructure Delivery

Development costs and infrastructure costs from the exhibited draft Contribution Plan and the final Draft Contribution Plan (attachment 1) remain the same. Council has reviewed the items proposed in the calculation and cannot identify any areas of duplication.

The infrastructure and construction cost assumptions have been independently reviewed by a Quantity Surveyor to determine whether the costs that were included in the exhibited plan were current. This review found that most of the costs were still applicable, and no changes were made to the exhibited plan.

Although the cost of the works that were used to calculate the Levy cannot be amended once the plan is adopted, it is considered that the cost of works inflate in parallel with development costs. There is also the ability to continue to apply a PPI once the contribution is calculated in a development consent. PPI has been considered over CPI as it is best aligned to builder costs.

Land Values

The Council sought an independent valuation of land values in the Aerotropolis precincts as part of the amended plan process. This valuation was peer reviewed by Deloitte and the Office of Strategic Lands (OSL).

Post exhibition the values of these lands were again peer reviewed at the request of Penrith Council and the review noted a minor alteration to the constrained land and the Agribusiness land. Taking into consideration that Penrith were to implement these changes to their Plan, Council evaluated the rates and acknowledged them to be fair and reasonable for application within Liverpool Council Contribution Plan.

Therefore, land values have been updated to reflect current values that are being applied to land acquisition with the Western Parkland City and the Western Sydney Aerotropolis. The change to land acquisitions rates is as follows:

	Exhibit November 2020	Exhibit May 2023	Final October 2023
Constrained land	\$85m ²	\$90.00m ²	\$95.00m ²
Developable Land (mixed use)	\$500m ²	\$550.00m ²	\$550.00m ²
Developable Land (Enterprise)	\$400m ²	\$500.00m ²	\$500.00m ²
Developable land (Agribusiness)		\$250.00m ²	\$330.00m ²

This minor amendment to the values noted a minimal change to the cost of land to be acquired, meaning an incremental increase of 0.1% to the overall Levy of the plan. The increase in the land acquisition rates for Agribusiness and Constrained land, increasing the levy of the plan from **4.5 to 4.6%**.

It is necessary to ensure the most current land values are captured in the s7.12 Plan prior to being supported by the Minister, as land values cannot be adjusted in the Plan was endorsed by the Minister. As the land value adjustment is of a minor nature, it is considered that the plan does not require re-exhibition.

Amended Contribution Rates

As this Plan is a Section 7.12 Plan, the levy is calculated based on the percentage of the overall infrastructure costs in the plan against the capital investment value (CIV) of future development.

The amended draft Aerotropolis Contribution Plan will apply a contribution rate of 4.6% to development within the Liverpool LGA. The draft Contribution Plan has increased slightly by 0.1% to reflect an increase in land values for constrained and Agribusiness precincts.

The Developer Costs, Infrastructure costs and current rates are provided in the table below:

	Exhibit – May 2023	Final – October 2023
Development Costs	\$45.3bn	\$45.3bn
Infrastructure works	\$792.9m	\$792.9m
Infrastructure land	\$1.226bn	\$1.276bn
Governance, Planning, Management Fee	1.5%	1.5%
Contribution rate	4.5%	4.6%

The contribution rate is lower for Liverpool LGA, due to Liverpool having a much higher NDA than Penrith LGA. The higher NDA generates greater development costs, creating a lower percentage contribution rate. Penrith Council has a rate of 5.6%. This rate has increased by 0.1% as a result of the amended land values as noted above.

Local Infrastructure Costs – Liverpool Aerotropolis Precincts

The Liverpool draft Contribution Plan identified the following local infrastructure costs per precinct. The background report further prescribed the detail rational and needs for the inclusions and exclusions of items.

	Badgerys creek (LCC LGA)	Agribusiness (LCC LGA)	Aerotropolis Core	Total Work
Works	\$	\$	\$	\$
Roads	57.9m	146.4m	291.0m	495.3m
Open Space	21.9m	54.4m	153.4m	229.7m
Community Infrastructure		2.3m	65.7m	68.0m
Land Acquisition	\$	\$	\$	\$
Roads	78.4m	107.2m	362.7m	548.3m
Open Space	43.2m	105.2m	538.8m	687.2m
Community Infrastructure		0.1m	40.2m	41.2m
Governance, management and planning	1.2m	3.0m	7.7m	11.9m
Total	201.9m	371.9m	1457.2m	2081.6m

Administration Changes to Plan

As noted above Council sought a legal review of the contribution plan and its lawfulness as it applies to the plan. Council also considers the application of the draft plan against current development proposal to ensure that the plan is effective in its application.

Administration Rate

Council has amended the naming of this rate, so not to confuse the rate with the administration levy in a 7.11 plan. The rate applied in the s7.12 plan is to assist in the governance, management and planning of infrastructure aligned to the plan. This Plan will require additional internal resourcing to implement and manage, and the funding of these resources need to be identified and captured under a contribution plan. These are not project management costs.

Exemption in the Plan

Deletion of Clause 11 - The plan does not apply to the following types of developments:

- (a) Development that was permissible on the land immediately before State environmental Planning Policy (Western Sydney Aerotropolis) 2020 came into effect.

The purpose for deleting this clause is due to Section 4.13a of the above-mentioned SEPP, allowing prohibited use under the current land use table, that was permitted (with or without development consent) prior to 2020 SEPP, continuing to be considered under a development consent.

The use of this exemption against possible future development would result in a loss of contributions calculated and payable. It is considered that future development of significant investment is a direct result of the growth area, and the benefits of the infrastructure being built. Therefore, it is envisaged that all future developers should share in the cost of delivering infrastructure and that the removal of this exemption is considered fair and reasonable.

Post Completion Review of development construction costs

An additional administrative clause has been inserted, to address the concerns raised from Industry about the evaluation and fairness of construction costs assessments. A new clause, 'Post Completion Review of Development Construction Costs', is to ensure that applicants, at the time of submitting their QS, provide a fair and reasonable QS report. Industry members raised concerns on the consent of contributions only being calculated at the commencement of consent with no further review or assessment, which may provide commercial advantage. To address the concern raised by Industry, Council has inserted the following clause:

Prior to the issue of any occupation certificate, a post completion review of construction costs, prepared by a professional Quantity Surveyor or Charter Professional Accountant is to be provided to Council specifying the actual cost of works. Where the actual costs of works exceeds that for which s7.12 contributions were calculated pre development, the shortfall in development contributions is to be paid prior to the issue of the occupation certificate. Council will not consider the reimbursement or refund of contributions.

Council will also insert a condition of consent noting the above at "Prior to issuing an Occupation Certificate". This clause will not apply at subdivision certificate.

Development to which this plan applies – section 10

Council has inserted a clause not to allow an exemption for 'any' work value, for the 'First fit out' of a premise and that a contribution levy to apply. It is considered that the 'First' fit out of a premise is a 'stage' to the development. This will mitigate the potential of applicants placing multiple DA's under \$200k for fit out of a build. The use and term 'First' is at Council discretion. However, generally it would be considered that where a business has had a 'fit out' and been in operation within the building for more than 12 months, the build is deemed satisfactory to have complied with 'First'.

Updated Tables

Due to the increased land values and their calculations, the tables within the Draft contribution Plan was updated to reflect the revised totals. These changes are of minor nature to ensure that the true costs are captured in the Contribution plan and the background report.

Deferral of Payment

The Deferral of Payment section required more information on its assessment and process. The deferral cannot be lined to the transfer of land or material public benefit as 'work in kind Agreements' cannot be considered under a s7.12 plan. Therefore, this clause requires option of enforcement and a platform for Council. The additional information will provide clarity to officers and developers ensuring equality and fairness in the evaluation of requests received for deferment of contributions.

Next steps

Since 2020, Council officers have had ongoing and detailed discussions with landowners and industry regarding infrastructure delivery and development contributions in the Aerotropolis. Council officers have participated at community forums facilitated by Sydney Water and DPE. Officers will continue to work with key stakeholders such as landowners, DPE and other state agencies to align project delivery and seek opportunities to delivery and fund land acquisition and infrastructure.

Subject to the recommendation of Council, it is envisaged that should the plan be supported by Council, it will then proceed to the Department of Planning and Environment where it will be reviewed and assessed by the infrastructure team, prior to being received by the Minister with a report.

Subject to the decision of the Minister, the plan will require a further report to Council on the outcome of the review. Should the plan be supported by the Minister and Council then notified, Council has 28 days from a resolution of Council, to notify the Minister of its decision.

FINANCIAL IMPLICATIONS

There are a number of financial considerations for Council with respect to the application of the draft Aerotropolis Contributions Plan. This includes Council's current acquisition responsibilities under the SEPP.

As Council is the nominated acquisition authority for land identified as 'Local Open Space and Drainage', the hardship provisions of the Land Acquisition (Just Terms Compensation) Act 1991 apply, and landowners are able to submit a hardship application to expedite the acquisition of their property. As there is no development contributions plan in place, Council doesn't have a source of income to draw on funds to pay for hardship claims. All hardship claims received in the Aerotropolis will need to be funded via other revenue sources in the interim period.

Whilst it is not expected that Council will receive many hardship claims, they can pose a financial risk to Council. Trajectory of funds available under the plan to deal with claims, is not anticipated until the 7th year of the plan being in force.

There is also the potential risk of a shortfall in applying a 7.12 plan, where land is to be acquired. Contributions rates or levies are not adjusted to consider inflation of property prices. There is no mechanism to adjust the value of the land. Therefore, it is likely that the contribution plan will be underfunded by the date when funds become available to acquire land.

The other issue to address is that the s7.12 plan does not permit work in kind agreements. The only option is for developers to enter into an agreement with Council via a VPA. Alternatively, Council must deliver the local infrastructure within these precincts under its current operational plan. This will require immediate design and project management resources, which could be funded under the Plan, if funds were available. Until funds are available the plan will need to be capitalised via Council's operational budget.

It is anticipated that as further information and policy position becomes available, the plan may be subject to a revision or implementation of a new plan, with a detailed schedule of works.

The administration of this plan and the work to be ongoing, it is likely that further resourcing is required. Administration costs have been identified to assist with the delivery of this plan.

CONSIDERATIONS

<p>Economic</p>	<p>Utilise the Western Sydney City Deal Agreement to create Jobs for the Future.</p> <p>Utilise the Western Sydney City Deal agreement to provide opportunities for residents in the LGA to enhance skills and education.</p> <p>Further develop a commercial centre that accommodates a variety of employment opportunities.</p> <p>Deliver and maintain a range of transport related infrastructure such as footpaths, bus shelters and bikeways.</p> <p>Enhance the environmental performance of buildings and homes.</p> <p>Deliver a high quality local road system including provision and maintenance of infrastructure and management of traffic issues.</p> <p>Facilitate economic development.</p> <p>Facilitate the development of new tourism based on local attractions, culture and creative industries.</p>
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<p>Environment</p>	<p>Utilise the Western Sydney City Deal agreement to enhance liveability and environment of the LGA.</p> <p>Utilise the Western Sydney City Deal agreement to facilitate Planning and Housing in the LGA.</p> <p>Manage the environmental health of waterways.</p> <p>Retain viable opportunities for local food production while managing land use to meet urban growth.</p> <p>Enhance the environmental performance of buildings and homes.</p> <p>Protect, enhance and maintain areas of endangered ecological communities and high quality bushland as part of an attractive mix of land uses.</p> <p>Raise community awareness and support action in relation to environmental issues.</p> <p>Promote an integrated and user friendly public transport service.</p> <p>Support the delivery of a range of transport options.</p>
<p>Social</p>	<p>Utilise the Western Sydney City Deal agreement to provide connectivity across the LGA through infrastructure and social initiatives.</p> <p>Preserve and maintain heritage, both landscape and cultural as urban development takes place.</p> <p>Regulate for a mix of housing types that responds to different population groups such as young families and older people.</p> <p>Support access and services for people with a disability.</p> <p>Deliver high quality services for children and their families.</p>

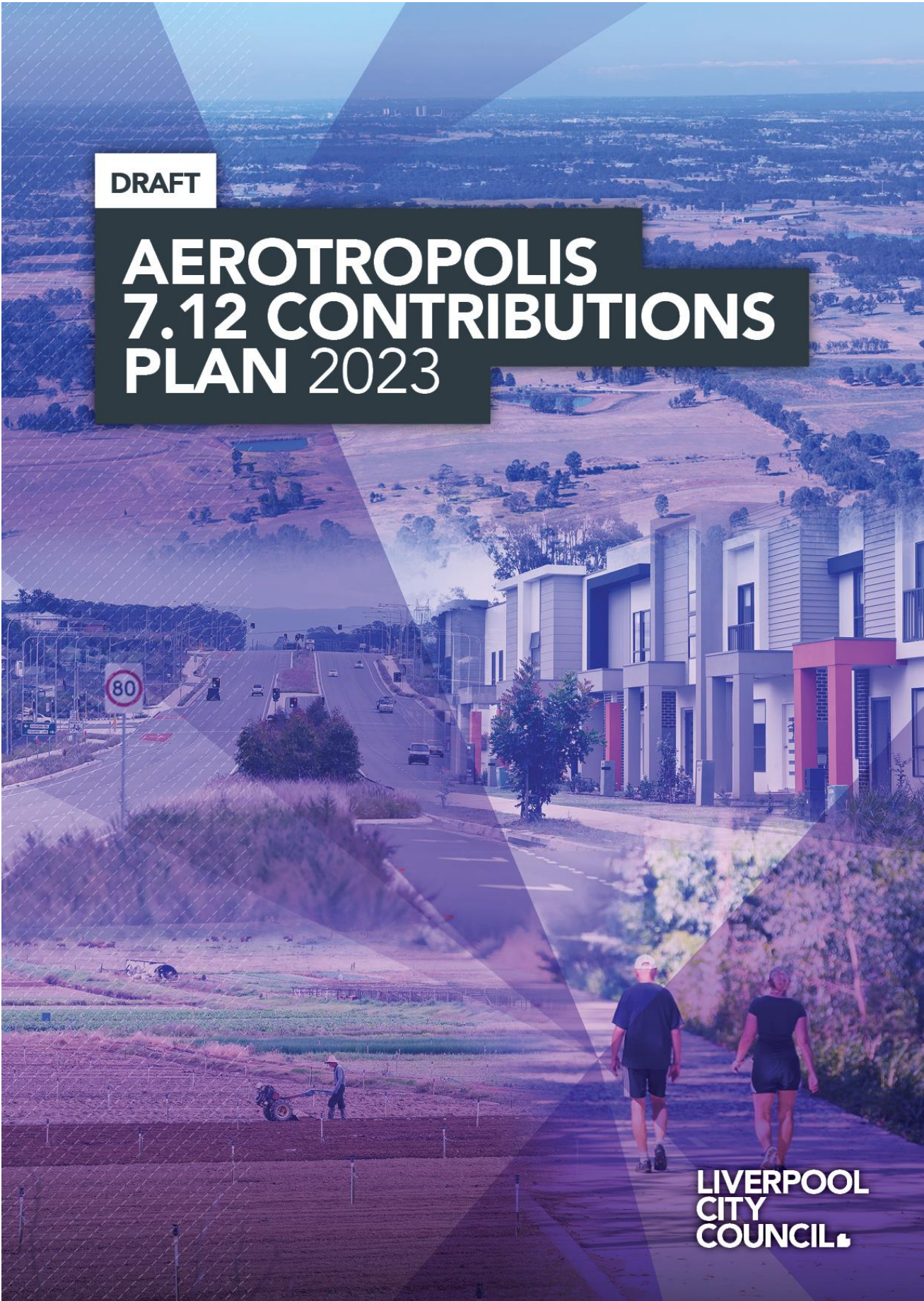
<p>Civic Leadership</p>	<p>Implementation and Governance of the Western Sydney City Deal agreement.</p> <p>Act as an environmental leader in the community.</p> <p>Undertake communication practices with the community and stakeholders across a range of media.</p> <p>Foster neighbourhood pride and a sense of responsibility.</p> <p>Facilitate the development of community leaders.</p> <p>Encourage the community to engage in Council initiatives and actions.</p> <p>Provide information about Council's services, roles and decision making processes.</p> <p>Deliver services that are customer focused.</p> <p>Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.</p> <p>Actively advocate for federal and state government support, funding and services.</p>
<p>Legislative</p>	<p>Environmental Planning and Assessment Act 1979</p> <p>Environmental Planning and Assessment Regulation 2021</p> <p>State Environmental Planning and Assessment Act (Western Parkland city) 2021.</p>
<p>Risk</p>	<p>The risk is deemed to be Medium.</p> <p>A contribution Plan that is not adopted caused by deferring resulting in delay in development and infrastructure delivery for the precinct of the Aerotropolis. The risk is considered outside Council's risk appetite.</p>

ATTACHMENTS

1. Attachment 1 - Draft s7.12 Aerotropolis Contribution Plan 2023
2. Attachment 2 - S7.12 Plan - Submission Table and Comments

DRAFT

AEROTROPOLIS 7.12 CONTRIBUTIONS PLAN 2023



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