

AGENDA

GOVERNANCE COMMITTEE MEETING

13 February 2024



You are hereby notified that a **Governance Committee Meeting** of Liverpool City Council will be held at **LEVEL 6, 35 SCOTT STREET, LIVERPOOL NSW 2170** on **Tuesday, 13 February 2024** commencing at 10.00am.

Please note this meeting is closed to the public. The minutes will be submitted to the next Council meeting.

If you have any enquiries, please contact Council and Executive Services on 8711 7863.

A handwritten signature in black ink, appearing to read "John Ajaka".

Hon John Ajaka
CHIEF EXECUTIVE OFFICER

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ITEM 01	Draft Regional Affordable Housing Scheme - Response to Questions on Notice
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Strategic Objective	Visionary, Leading, Responsible Position Council as an industry leader that plans and delivers services for a growing city
File Ref	023540.2024
Report By	Brianna Van Zyl - Senior Strategic Planner
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

The Western Sydney Planning Partnership (WSPP) has prepared a draft Western Sydney Regional Housing Strategy and Contribution Scheme (the draft Scheme) (**Attachment 2**). This Scheme intends to use a regional approach to facilitate affordable housing in Western Sydney.

The draft Scheme will allow affordable housing contributions to be levied as a Condition of Consent for certain Development Applications to contribute to new affordable housing in Western Sydney. This contribution has been set at a low-rate and with a long, staged three-year introduction between exhibition of the draft Scheme and coming into effect in March 2027, to ensure that it does not undermine the delivery of development. Specifically, it will require affordable housing contributions for residential subdivision and residential development, which will generally be calculated at 1.5% of the total floor space or developable area, with a reduced rate of 0.3% for major non-residential development.

The draft Scheme will exempt several development types from making a contribution, including replacement dwellings (knockdown rebuilds), non-residential development with a gross floor area of less than 1,000m², alteration and additions, and change of use applications.

It is estimated the draft Scheme will lead to the delivery of approximately 4,100 to 4800 dwellings if partially implemented (if further exemptions are made to the scheme), and approximately 6,800 dwellings in a 'high scenario'. If, after considering feedback received during consultation, it is decided to amend the draft Scheme to reduce the types of development the Scheme applies to, then there will be less funds available, and the lower end of the estimated range may be more likely.

At its Ordinary Meeting of Council on the 13 December 2023, the draft Scheme was deferred for a workshop, with questions taken on notice. The purpose of this Report is to formally respond to the received questions and facilitate detailed discussion on the draft Scheme.

The draft Scheme will be re-reported to the next available Council Meeting, seeking endorsement to proceed to public exhibition. If the draft Scheme is endorsed by Council, it will be placed on public exhibition in early 2024 in accordance with Council's Community Participation Plan (CPP). Any submissions and feedback will be considered and reported to Council, allowing Council to consider whether to endorse the application of the draft Scheme for the Liverpool Local Government Area (LGA).

If supported by the majority of the nine Western Sydney Councils (Blacktown, Blue Mountains, Hawkesbury, Fairfield, Liverpool, Penrith, Camden, Campbelltown and Wollondilly) it will come into effect in 2027.

RECOMMENDATION

That the Committee recommends Council:

1. Notes this Report, the draft Western Sydney Regional Affordable Housing Contribution Scheme prepared by the Western Sydney Planning Partnership, and the responses to questions on notice; and
2. Receives a Council Report which details the Affordable Housing Contribution Scheme, and relevant next steps.

REPORT

Background

On the 13 December 2023, the draft Western Sydney Regional Affordable Housing Contribution Scheme, prepared by the Western Sydney Planning Partnership (WSPP) was tabled at the Council Meeting. The Report outlined the details of the draft Scheme, and Council resolved the following:

That:

1. *Council notes this report and the draft Western Sydney Regional Affordable Housing Contribution Scheme prepared through the Western Sydney Planning Partnership.*
2. *Council defers the draft Western Sydney Regional Affordable Housing Contribution Scheme and associated attachments to a workshop so Councillors can consider the scheme in detail.*
3. *Clr Rhodes and Deputy Mayor Macnaught send their questions with notice to Council staff, and they are to be answered before the workshop.*

4. *Mayor Mannoun's question on "what the quantifiable definition of affordable housing is? What dollar figure constitutes affordable housing" also be answered before the workshop."*

Refer to **Attachment 1** for the 13 December 2023 Council Report which details the requirement to prepare an affordable housing contributions Scheme, the proposed Draft Regional Affordable Housing Contribution Scheme, as well as economic impacts, affordable housing delivery, sub-regional scheming, and next steps.

Question on Notice – Responses

As a result of the above resolution, the Western Sydney Planning Partnership in collaboration with Council Officers, has provided the following responses to the received questions:

Question 1: *"Reduce the burden on individual Councils preparing and administering schemes"* [Page 110, Paragraph 2]. **How much money does getting a scheme prepared and administrated by WSPP save LCC Council?**

Response: All Sydney Councils are required by NSW Department of Planning, Infrastructure and Housing (DPHI) to prepare an Affordable Housing Contribution Scheme (AHCS) as part of the assurance process for their Local Housing Strategies. The preparation of a Scheme is an action for each Council in the Greater Sydney Region Plan and District Plan, which set targets of between 5-10% of new residential development.

A key aim of the WSPP working with the nine Western Sydney Councils (Blacktown, Blue Mountains, Hawkesbury, Fairfield, Liverpool, Penrith, Camden, Campbelltown and Wollondilly) to prepare a Regional AHCS is to reduce the costs for individual Councils in preparing and administering affordable housing schemes, as there are efficiencies that can be achieved working collaboratively. The WSPP is working with DPHI to finalise the statutory implementation mechanism for Councils who agree to adopt the Scheme. This is likely to occur through a process whereby DPHI will prepare an amending SEPP to amend all LEP's at the same time.

This would save each Council from needing to progress individual planning proposals to amend their LEPs, a cost and resource-intensive process.

There will however still be some costs for Council in the ongoing administration, procurement, management and maintenance of affordable housing, even with the regional approach. However, the draft Scheme is designed to minimise these costs by pooling resources with other Councils, partnering with Homes NSW to assist with procurement, and contractual management of the housing delivery, and transferring ownership of the end housing asset to the relevant housing provider (with an agreement for in-perpetuity provision).

Liverpool City Council does not currently have an affordable housing scheme in place, and development of an individual LCC-wide Scheme would cost in excess of \$100,000 for expert Consultants (to prepare a housing need analysis, economic testing, specialist advice and legal

fees). It would also require substantive planning staff time to prepare the Scheme, manage Consultant inputs and draft the LEP amendment and planning proposal. If Council was to proceed with their own scheme, it is estimated the process would likely take between 2 and 4 years to complete.

Question 2: *“Under this scheme it is estimated to lead to the delivery of 4,800 to 6,800 affordable rental dwellings over 10 years”* [Page 109, last paragraph]. Is that number of affordable rental dwellings for each LGA, or the Combined LGA’s, or for each of the partnerships?

Response: As the draft Scheme is based on a small percentage of additional floorspace from development monetised into a contribution, the number of affordable homes delivered will depend on development activity over the next 10 years. If there is an increase in overall development than currently predicted using DPHI’s implied dwelling demand (used to calculate the estimate scheme delivery), then this could result in the delivery of additional affordable housing.

The broader projections of affordable rental housing supply are for the nine LGAs in total and depend on the final affordable housing scheme that is adopted. WSPP is open to refining the scheme and the land uses / applications it applies to. For the Liverpool LGA, based on overall DPHI implied dwelling demand, the draft Scheme could fund delivery of between 620 dwellings (low scenario, assuming exemptions) and 1,040 dwellings over 10 years of contributions (high scenario scheme with limited exemptions).

These figures are a high-level estimate only and will be updated when the final form of the draft Scheme is known after consultation (e.g. changes are made to the types of development exempted from the draft Scheme).

Question 3: Regarding the Liverpool and Fairfield Partnership, it is expected LCC would contribute more than FCC because there are more DAs in Liverpool that will be taxed by the new Levy:

- a) does Liverpool and Fairfield have to deliver the same number of Affordable rental Housing?
- b) Explain how Liverpool benefits from this partnership?

Response: In response to Question (3a), the City Councils of Liverpool and Fairfield do not have to deliver the same number of affordable housing. The quantity of affordable housing delivered under the draft Scheme will correlate with the amount of contributions collected within each with LGA, and the amount of contributions collected will depend on the amount of approved development within each LGA.

The draft Distribution Plan is designed so that over a 10-year period, the proportion of funds raised in the Liverpool LGA would be spent on affordable housing in Liverpool LGA. There is further opportunity to amend the approach to sub-regional pooling if Council would prefer to administer and manage the funds for the Liverpool LGA separately.

The sub-regional pooling of funds is recommended as it provides more flexibility and scale for housing providers to commence projects, and for the larger housing providers to be involved who can also leverage other external financing of affordable housing projects. This would then allow more affordable housing to be delivered.

The pooling of funds also reduces the administrative and cost burden for each individual Council and Homes NSW in managing the commissioning process for affordable housing, avoiding duplication of effort.

Question 4: Please explain in detail what developments will be taxed / levied.

Response: The draft Scheme applies to both residential and non-residential development. There is further opportunity to amend the draft Scheme to include or exclude different development types, based on feedback received during the non-statutory consultation period and each participating Council's views.

For non-residential development (i.e. retail, commercial and industrial development), the draft Scheme applies only a 0.3% contribution to larger developments (i.e. sized over 1,000sqm of floorspace) to minimise impacts on small and medium businesses. The 0.3% rate is a discounted rate that supports the intent to attract jobs whilst recognising the affordable housing need generated by large industrial, retail and commercial developments for essential workers.

For residential development, the draft Scheme proposes a 1.5% contribution rate to apply to all residential development proposals except the following:

- Social and affordable housing and other specialist accommodation comprising:
 - Social housing
 - Affordable housing
 - Seniors Housing
 - Boarding houses
 - Group homes
 - Hostels
 - Community facilities
- Replacement dwellings (i.e. knock down and rebuild on an existing lot)
- Residential alterations and additions less than 200sqm of additional floor space
- Change of use/replacement development that does not result in additional floorspace
- Super lot subdivision that does not result in the creation of a final residential lot

- Subdivision that does not result in a new lot (i.e. boundary adjustment)

The draft Scheme exempts knock down / rebuilds of dwellings from making contributions. However, at this stage large residential alterations that create over 200sqm have been included. This may be an exemption that Council wants to consider post-public exhibition.

Participating Councils are encouraged to consider whether further exemptions would best apply in their respective LGAs, and this can be accommodated in the draft Scheme post-public exhibition.

Question 5: Regarding the pooling of funds:

- a) Explain how the contributions are collected and distributed?**
- b) Who is responsible to ensure the money is distributed to the affordable housing provider?**
- c) Who is responsible to ensure the works / are done by the affordable housing provider?**
- d) Who is responsible that the levy is accountable to the development from which the funds were collected?**

Response: As the draft Scheme is applying a low percentage rate, it requires a monetary contribution from development towards affordable housing, except in exceptional circumstances where Councils may negotiate an in-kind contribution of land.

In response to Questions 5(a) and 5(b) above, the contributions will be levied by individual Councils as a Condition of Development Consent and would be collected and held by the relevant Council in a separate fund until delivery of an affordable housing project is commissioned.

Under the draft Distribution Plan, each participating Council would have an agreement with Homes NSW to act as its agent in commissioning and entering into a contract with an eligible housing provider to deliver the housing. When Council is satisfied that a legal contract has been established to deliver the housing, it would transfer the funds to the eligible housing provider as per the contract arrangements with Homes NSW.

The selection of projects would be through an Expression Of Interest (EOI) process where the sub-regions' Councils, and Homes NSW would set up a panel to rank proposals against criteria set out in the draft Distribution Plan .

In relation to Question 5(c), under the draft Distribution Plan, Homes NSW would be responsible for ensuring the works are undertaken, and the contract is managed. Council would not need to undertake this task, after projects and an eligible housing provider have been selected.

In relation to Question 5(d), the levies collected under the draft Scheme will be managed and held by each participating Council until the Council is satisfied that a legal agreement to deliver affordable housing within their respective LGA has been entered into with an eligible housing provider.

Question 6: The affordable housing contribution scheme is a short-term action. [Page 111, Paragraph 3], define ‘short’.

Response: The development of the draft Scheme is a short-term action (i.e. 1-3 years) of the WSPP Draft Affordable Housing Strategy. As such, in this context “short” is defined as having a time horizon of 1-3 years.

The subsequent administration of the draft Scheme, and associated delivery of affordable housing, are medium to longer term actions.

Question 7:

a) What happens if the partnering LGA does not sign the Agreement?

b) If so, what would be Liverpool Council’s anticipated number of affordable rental dwellings over a 10-year period?

Response: If a participating Council elects not to adopt an affordable housing scheme (either the regional scheme or an individual scheme), then there will be no legal mechanism to collect funds for the delivery of affordable housing within that LGA, and would likely result in no affordable housing being delivered within that LGA.

If a Council elects to not participate as a partner in a sub-region for pooling, then this sub-region would not apply to that area. Liverpool in this case could seek to join another sub-region (noting that the legislation required that a sub-region would have a common boundary) or operate as a single LGA for the commissioning process.

If a Council does not wish to enter into a partnership with another Council, there is an opportunity for Liverpool to still be part of the regional Scheme but be identified as a single LGA for commissioning instead of pooling contributions for the commissioning process. The benefits of scale achieved with sub-regional pooling would not be achieved and it likely less affordable housing would be delivered for the LGA, though the number of dwellings would be dependent on the model adopted.

Question 8: The affordable rental housing supply to be created through the draft Scheme, Federal Government Funding, as well as other land resources.

a) How many dwellings does the Scheme implement if partially implemented?

b) Define ‘Partially implemented’

c) Define ‘Distribution approach’

Response:

In response to Questions 8(a) and 8(b) above, partial implementation refers to a low scenario with further exemptions made to the draft Scheme, which would reduce the number of affordable dwellings provided. Over a 10-year period, this could be in the range of approximately 4,100 to 4,800 dwellings (depending on exemptions).

Under a high growth scenario, analysis undertaken by SGS Economics Consulting indicated a provision of approximately 6,800 dwellings over a 10-year period.

If, after considering feedback received during consultation, it is decided to amend the draft Scheme to reduce the types of development the Scheme applies to, then there will be less funds available, and the lower end of the estimated range may be more likely.

Note that the draft Scheme is designed to collect monetary contributions, which can form part of a wider financing arrangement open to the Community Housing sector (that could include low-cost financing from the Federal Government) to allow development of rental housing that can be provided at below market (i.e. affordable) rental levels for lower income households.

In relation to Question 8(c), the 'distribution approach' is the approach taken to collecting the funds through the draft Scheme, and then commissioning the delivery and management in perpetuity of affordable rental housing supply. This is set out in the draft Distribution Plan (rather than the draft Scheme). The Draft Plan is a non-statutory operational policy of the participating Councils, empowered by the legal Scheme. For the Draft Plan to come into force, it must be adopted by a formal resolution of each participating Council.

There will be further opportunity to amend and further refine the distribution approach as the draft Scheme progresses. This would form a key part of the next stage of work between participating Councils and the WSPP.

Question 9:

- a) Explain how pooling contributions across four sub-regions increases scale and flexibility for delivery of affordable housing?**
- b) Explain how each Council retains ownership of the contributions until they are transferred to an eligible affordable Housing Provider [Page 114 2nd & 2nd last point]**

Response: In response to Question 9(a), the pooling of contributions would enable individual projects to commence more quickly using pooled available funds, as sufficient contributions would accumulate in a shorter period of time. This would also help to enable the leveraging of other external funding available to affordable housing providers. One of the key advantages also would be a reduction in the administration costs for each participating Council, particularly in relation to the procurement, and subsequent management, of the affordable housing itself.

In response to Question 9(b), the contributions will be levied by participating Councils as a Condition of Consent and collected when Construction Certificates (or subdivision certificates) are issued. They would then be held in a restricted fund by each participating Council. Each

Council will retain ownership of contributions within their respective LGA until they are transferred to an eligible affordable housing provider, where the Council is satisfied that a legal agreement to deliver the housing has been established.

Question 10: What happens if the affordable housing providers go bankrupt?

Response: Community Housing Providers (CHP) are publicly regulated and are registered under the National Regulatory System for Community Housing in one of three categories of registration according to risk (Tier 1, Tier 2 and Tier 3.) The draft Distribution Plan preferences Tier 1 and Tier 2 providers (which carry the lowest risk).

Under the draft Scheme, affordable housing providers will be pursuant to a Contract with Homes NSW, which will include provisions regarding when funds are provided, and what occurs if there are issues of unmet commitments or any liquidity issues. The homes themselves will include a title that requires the dwelling to be affordable housing in perpetuity.

Legal advice could be sought in the next stage of the project regarding what would occur to the assets if there were a bankruptcy, and this could inform the Contract that is prepared for use with a CHP. The key principle would be for the affordable rental housing to be available in perpetuity.

The ownership of dwellings by CHPs ensures there are no ongoing maintenance or asset renewal liability, property or tenant management, or long-term asset replacement costs for participating Councils.

Question 11: What is the quantifiable definition of affordable housing is? What dollar figure constitutes 'affordable housing'?

Response: Affordable housing means housing for very low-income households, low-income households or moderate-income households, being such households as are prescribed by the regulations or as provided for in an Environmental Planning Instrument. *Chapter 2, Part 1 of the Housing SEPP* describes very low-income households, low-income households or moderate-income households as:

a) the household

i) has a gross income within the following ranges of percentages of the median household income for Greater Sydney or the Rest of NSW –

A) very low income household – less than 50%,

B) low income household – 50-less than 80%,

C) moderate income household – 80-120%, and

ii) pays no more than 30% of the gross income in rent, or

b) the household

i) is eligible to occupy rental accommodation under the National Rental Affordability Scheme, and

ii) pays no more rent than the rent that would be charged if the household were to occupy rental accommodation under the Scheme.

For example, the median weekly household income in the Liverpool LGA is \$1,819 (ABS 2021). Table 1 below illustrates how this would then apply to the rent charged for an affordable housing dwelling.

Table 1 - Liverpool LGA example of possible affordable housing rent charges

Median Household Income = \$1,819	Moderate Income (80-120%)	Low Income (50-80%)	Very Low Income (less than 50%)
Median Weekly Household Income	\$1,455 - \$2,182	\$910 – \$1,455	\$910 or less
Maximum Weekly Rent	\$437 - \$655	\$273 - \$437	\$273 or less

It is noted that this is provided as an example only at a broad LGA level.

FINANCIAL IMPLICATIONS

Council has contributed \$10,000 in 2022-23 to assist development of the regional Scheme and some in-kind support from planning staff as part of a Working Group. If Council were to not opt in to this regional approach, there would be significant cost involved in preparing and administering an individual affordable housing scheme.

Further information in relation to the financial implications of developing an affordable housing scheme is provided in response to Question 1 within this Report.

CONSIDERATIONS

Economic	Facilitate economic development.
Environment	There are no environmental and sustainability considerations.
Social	Regulate for a mix of housing types that responds to different population groups such as young families and older people. Support community organisations, groups and volunteers to deliver coordinated services to the community.

Civic Leadership	Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.
Legislative	Division 7.2 Affordable Housing Contributions, within <i>Environmental Planning and Assessment Act 1979</i> .
Risk	<p>The risk is deemed to be medium.</p> <p>If Council does not proceed with the draft Scheme, Council may be required to invest substantive resources in developing individual Schemes to meet DPHI assurance requirements.</p> <p>Given the Council recommendation, this is considered within Council's risk appetite.</p>

ATTACHMENTS

1. Council Report 2023: Draft Affordable Housing Scheme
2. Draft Regional Affordable Housing Scheme
3. Correspondence on LHS Assurance Requirements
4. Draft Economic testing HillPDA
5. Draft RAHCS Distribution Plan

PLAN 04	Draft Regional Affordable Housing Contribution Scheme
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Strategic Objective	Healthy, Inclusive, Engaging Support an inclusive community by fostering access and equity for all
File Ref	377658.2023
Report By	Brianna Van Zyl - Senior Strategic Planner
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

The Western Sydney Planning Partnership (WSPP) has prepared a draft Western Sydney Regional Housing Strategy and Contribution Scheme (the draft scheme) (**Attachment 1**). This scheme intends to use a regional approach to facilitate affordable housing in Western Sydney. The purpose of this report is to present the draft scheme prepared by WSPP to Council and seek endorsement for the draft scheme to be placed on exhibition. Endorsing the plan for exhibition does not commit Council to the adoption of these documents.

The draft Scheme will allow affordable housing contributions to be levied as a condition of consent for certain development applications, to contribute to affordable housing provision in Western Sydney. This contribution has been set at a low-rate and with a long, staged three-year introduction between exhibition of the draft Scheme and coming into effect in March 2027, to ensure that it does not undermine the delivery of development. Specifically, it will require affordable housing contributions for residential subdivision and residential development, which will generally be calculated at 1.5% of the total floor space or developable area, with a reduced rate of 0.3% for major non-residential development.

The draft scheme exempts several development types from making a contribution, including replacement dwellings (knock down rebuilds), non-residential development with a gross floor area less than 1,000sqm, alterations and additions and changes of use applications.

The draft scheme is in line with Housing Strategy Action 14, and Council's Local Strategic Planning Statement Action 7.2.

The draft scheme identifies a process for delivery and management of the affordable rental housing in perpetuity. It is estimated to lead to the delivery of 4,800 to 6,800 affordable rental dwellings over a 10-year period.

ITEM 02	Voluntary Planning Agreement Monthly Status Report
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Strategic Objective	Healthy, Inclusive, Engaging Improve liveability and quality of life for the community by delivering vibrant parks, places and facilities
File Ref	334374.2023
Report By	Yee Lian - Contributions Planning Officer
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

The purpose of this report is to provide a summary of all activity associated with Planning Agreements (VPAs), which include VPAs that are offers under review, negotiation and executed VPA schedule of works, land and monetary contributions.

RECOMMENDATION

That the Committee receives and notes this report

REPORT

This report is prepared to table the status of Voluntary Planning Agreements (VPAs) for November 2023. The list outlines the status of each VPA, as well as their individual items.

Items that are stroked through resemble matters that are considered no longer outstanding.

Items are still outstanding when the works or land have not commenced, incomplete, under defects, maintenance periods, or deferred for further diligence / investigations.

Currently Council has:

- 1 Letter of offers under review
- 3 under review and/or negotiation
- 21 currently executed VPAs.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this recommendation.

CONSIDERATIONS

Economic	There are no economic and financial considerations.
Environment	<p>Manage the environmental health of waterways.</p> <p>Manage air, water, noise and chemical pollution.</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>
Social	There are no social and cultural considerations.
Civic Leadership	<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>
Legislative	<p>Environmental Planning and Assessment Act 1979</p> <p>Environmental Planning and Assessment Regulations 2021</p>
Risk	There is no risk associated with this report.

ATTACHMENTS

1. Monthly VPA Status Report to Council as at 15 November 2023

ITEM 03

Development Assessment

Strategic Objective	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
File Ref	017770.2024
Report By	William Attard - Manager Development Assessment
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

This report is prepared to table a snapshot of key Development Assessment (DA) statistics.

RECOMMENDATION

That the Committee receives and notes the Development Assessment report.

REPORT

The following key Development Assessment (DA) statistics are provided:

Development Applications and Class 1 Appeals

Development Applications (DAs) Outstanding/Received/Completed	
Outstanding – 31 January 2024	357 DAs
DAs Received – November 2023 to January 2024	402 DAs
DAs Completed – November 2023 to January 2024	512 DAs
Class 1 Appeals (November 2023 to January 2024)	
Outstanding – 31 January 2024	38 Appeals
Lodged – Deemed Refusal / Against Council's Determination	5 Appeals / 7 Appeals
Appeals Upheld – s34 Agreement / Hearing	3 Appeals / 1 Appeals
Appeals Dismissed	1 Appeals
Appeals Terminated	0 Appeals
Appeals Withdrawn	1 Appeals
Development Application (DA) Approval Statistics (November 2023 to January 2024)	
DAs Approved	184 DAs
Total Capital Investment Value (CIV) (\$)	\$430M CIV
New Lots Approved	507 Lots
New Homes Approved	288 Homes
DA Fees Released from Trust (\$)	\$1286k Fees
Contribution Fees Raised (\$)	\$22.6M Contributions

PANs Received, Returned & Average Timeframes (November 2023 to January 2024)	
PANs Received	402 PANs
PANs Returned	228 PANs
Average Timeframe - PAN to Lodgement	26 Days
Average Determination Timeframe	
Average Determination Timeframe – For Current Financial Year	263 Days
Average Determination Timeframe – For November 2023	224 Days
Average Determination Timeframe – For December 2023	261 Days
Average Determination Timeframe – For January 2024	227 Days

Development Assessment (DA) Team Vacancy (Technical Officers Only)

Position	Positions	Vacancy
Principal Planner	1	0
Senior DA Planners	9	2 (Under Recruitment)
Senior Planning Advisory Officers	3	1 (Under Recruitment)
DA Planners	14	1 (Under Recruitment)
Student Planners	4	1 (Under Recruitment)
Duty Officers	2	0

FINANCIAL IMPLICATIONS

There are no financial implications relating to this recommendation.

CONSIDERATIONS

Economic	There are no economic and financial considerations.
Environment	There are no environmental and sustainability considerations.
Social	There are no social and cultural considerations.
Civic Leadership	Undertake communication practices with the community and stakeholders across a range of media. Provide information about Council's services, roles and decision making processes.
Legislative	There are no legislative considerations relating to this report.
Risk	There is no risk associated with this report.

ATTACHMENTS

Nil

ITEM 04

Draft Compliance and Enforcement Policy

Strategic Objective	Healthy, Inclusive, Engaging Improve liveability and quality of life for the community by delivering vibrant parks, places and facilities
File Ref	022153.2024
Report By	Noelle Warwar - Manager Community Standards
Approved By	Lina Kakish - Director Planning & Compliance

EXECUTIVE SUMMARY

In late 2015 the NSW Ombudsman issued Enforcement Guidelines and a Model Policy for Councils. The Policy provides structure for consistency and transparency in decision-making regarding compliance and enforcement issues and facilitates a proportional approach to compliance and enforcement based on risk and impact.

The draft Compliance and Enforcement Policy is intended to replace Council's Current Enforcement Policy (adopted on 23 November 2022).

The key changes to the Policy include:

- The title has been changed to include both compliance and enforcement;
- It has been updated to reflect the principles of the NSW Ombudsman's Guidelines and Model Policy for Councils;
- The Policy provides greater clarity on the use of discretion; and
- The Policy proposes a proportionate approach to enforcement and compliance management based on the level of risk in regard the unlawful activity and the resources available.

The draft policy was presented at a Governance Committee meeting held on 10 October 2023 seeking that the Committee recommends that Council:

1. Endorse the draft 'Compliance & Enforcement Policy' for public exhibition for a period of not less than 28 days (Attachment 1).
2. Direct the CEO to report back to council at the end of the exhibition period

On being put to the meeting the motion was declared CARRIED.

The item was raised at Council meeting on 22 November 2023. Council determined that the draft Compliance and Enforcement Policy would be deferred to a Governance meeting for a thorough discussion with Councillors.

The Manager of Community Standards will present on and answer questions on the draft policy.

RECOMMENDATION

That the Committee recommends Council:

1. Endorse the draft 'Compliance & Enforcement Policy' for public exhibition for a period of not less than 28 days (Attachment 1).
2. Delegates to the CEO the finalisation of the 'Compliance & Enforcement Policy', should no submissions be received; or report back to Council the details of the submissions upon conclusion of the exhibition period.

REPORT

As a regulator, Council is obliged under certain legislation including but not limited to the Local Government Act 1993, Environmental Planning and Assessment Act 1979, Protection of Environment Act 1991, Public Spaces (Unattended Property) Act 2021 and Roads Transport Act 2013 to properly deal with allegations about unlawful activities relating planning, building and construction, environmental and public health, safety, car parking and transport, companion animal management, and public and natural area regulation.

This may also include activities that are prohibited or unauthorised or contrary to the terms of a consent or approval. A failure to properly deal with allegations and compliance can have adverse outcomes for the community and expose Council to liability and subsequent litigation expenses.

The Policy outlines matters for consideration through the various stages of the process from receipt of unlawful activity complaints through to the types of enforcement actions that can be considered, including the use of discretion.

A key aspect of the Policy is the inclusion of a "risk matrix" which provides guidance on how Council will prioritise, and action complaints received, particularly during times where the number of complaints received exceed the available resources dedicated to investigations.

Currently, with the exception of the most serious public safety matters, requests are dealt with in the order they are received and utilising the same investigative process (site visit etc). Given

the available Council resources, the current process has resulted in a backlog of more than 700 unactioned requests with wait times far exceeding 12 months.

The Policy is intended to give priority to the high-risk complaints where a full investigation will be conducted. Lower risk complaints may be dealt with via the use of discretion (i.e. no action) or alternatively via “letters of cooperation”. Letters of cooperation will provide information on how the customer may be able to resolve the issue via other means. This may include speaking with their neighbour, seeking the support of the Community Justice Centre (mediation), other requests that may be better dealt with via for example a strata corporation or other agency (such as NSW Police or the NSW Housing).

As staff resources become available, more detailed investigations of complaints other than high risk would be able to occur.

The benefits of this approach include a focus on the more serious matters in our community i.e. where there is a threat to persons, property or the environment and a more timely response to concerns from our community. This approach also provides clear communication and expectations on how Council will respond.

As part of the implementation of a revised Compliance and Enforcement Policy Council will need to make internal administrative changes to its processes to manage the impact of the Policy changes. This includes developing processes and forms / checklists, standard letters used to respond to low risk and impact concerns.

REVIEW BY GOVERNANCE & LEGAL

In preparing the draft policy, feedback was sought from Council’s Governance Team and Legal Services Team. The feedback provided has been considered and incorporated into the final draft policy.

FINANCIAL IMPLICATIONS

There are no financial implications relating to this recommendation.

CONSIDERATIONS

Economic	There are no economic and financial considerations.
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Environment	<p>Manage the environmental health of waterways.</p> <p>Manage air, water, noise and chemical pollution.</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>
Social	<p>There are no social and cultural considerations.</p>
Civic Leadership	<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>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>
Legislative	<p>Local Government Act 1993.</p>
Risk	<p>The risk is deemed to be Medium.</p> <p>The risk is considered within Council's risk appetite.</p>

ATTACHMENTS

1. Draft Compliance and Enforcement Policy

ITEM 05

**Review of Council's Financial progress,
forecasts and assumptions**

Strategic Objective	Visionary, Leading, Responsible Ensure Council is accountable and financially sustainable through the strategic management of assets and resources
File Ref	033873.2024
Report By	Vishwa Nadan - Chief Financial Officer
Approved By	Farooq Portelli - Director Corporate Support

EXECUTIVE SUMMARY

In June 2023 the Council adopted its 2023-24 operating budget with estimated revenue of \$379.3 million and expenditure of \$250.8 million. In terms of the net operating result before grants and contributions provided for capital purposes, Council budgeted for an operating deficit of \$3.7 million.

This report provides revised projected operating result based on Q2 Budget Review and highlights key risks and opportunities that may impact on the projected result.

RECOMMENDATION

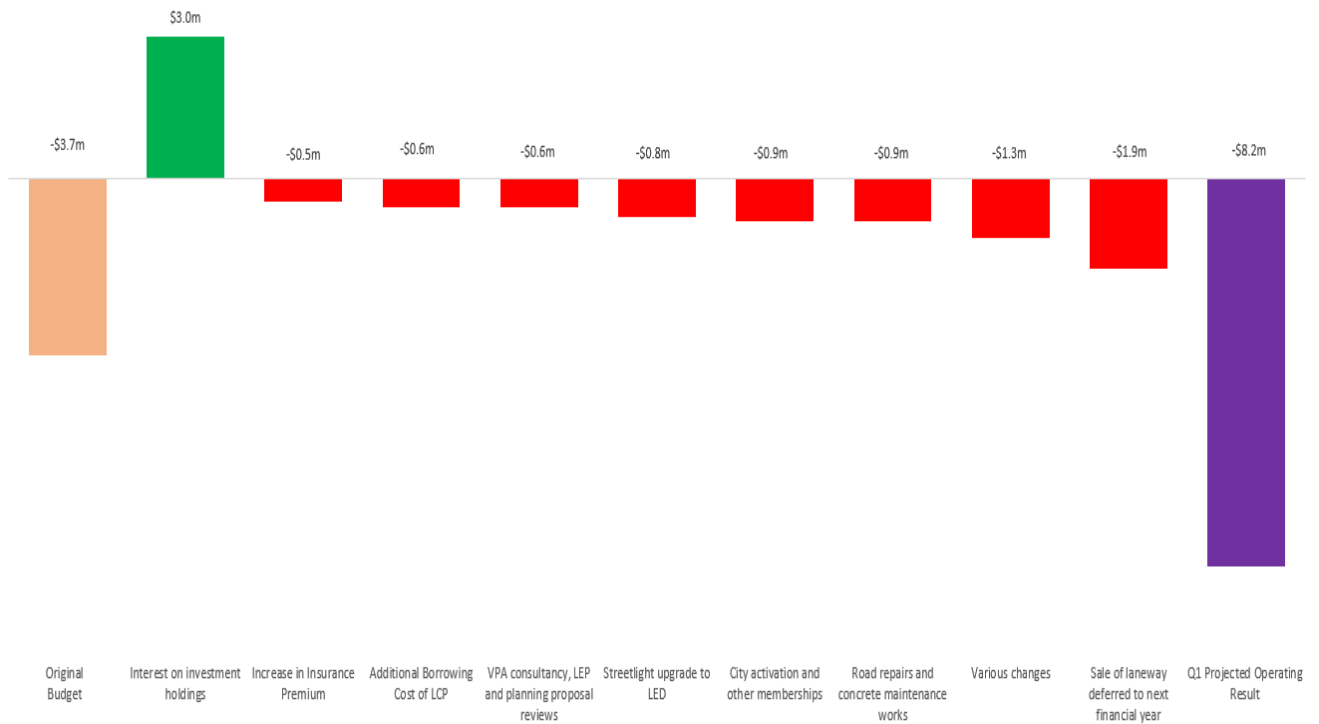
That the Committee receives and notes the report.

REPORT

Budget Performance

In June 2023 the Council adopted its 2023-24 operating budget with estimated revenue of \$379.3 million and expenditure of \$250.8 million. In terms of the net operating result before grants and contributions provided for capital purposes, Council budgeted for an operating deficit of \$3.7 million.

Council, based on the results of Q1 Budget Review, projected an operating deficit of \$8.2 million. Key variations are restated below:



The Q2 Budget Review, based on Council resolutions, program initiatives, market trends and actual budget performance to 31 December 2023, Council is projecting an operating deficit of \$8.3m. Key variations noted are:



On-going review of resource requirements to achieve corporate initiatives has resulted in an investment in additional unbudgeted positions and program costs. The \$4.6 million cost associated with engagement of additional staff resources and regrading's is expected to be absorbed by salary savings from current vacancies, deferred recruitment, and restructured positions across the Council.

Detailed analysis of both revenue and expenditure is provided as **Attachment 1**.
















Operating Revenue

Budget performance of key sources of operating revenue were as follows:

	YTD Budget \$'000	YTD Actual \$'000	FY Budget \$'000	FY Proposed Budget \$'000	Indicator
Rates & annual charges	85.034	86.314	170.067	171.467	👍
Other operating grants & subsidies	3.987	6.635	14.484	14.104	👍
Interest & investment income	5.717	8.473	11.433	16.433	👍
FAG grants	0.110	0.110	8.968	8.968	👉
Childcare fees & grants	4.260	3.778	8.521	8.552	👍
DA & other building fees	3.415	2.531	6.829	6.829	👍
Property rentals	2.396	2.775	5.644	5.316	👉
Parking fines	1.760	1.585	3.520	3.520	👍
Car parking fees	1.718	1.644	3.437	3.305	👍
Recovery - restoration works	1.220	1.080	2.440	2.440	👉
Ex-gratia income - Intermodal	0.000	0.000	2.245	2.245	👍
Net gain from disposal of assets	0.000	0.425	1.900	0.000	👎
Hire - community & recreational facilities	0.662	0.433	1.323	1.323	👉
Fair value increment on investment	0.000	1.144	0.000	0.500	👍

Operating Expenditure

Budget performance of key areas of operating expenses were as follows:

	YTD Budget \$'000	YTD Actual \$'000	FY Budget \$'000	FY Proposed Budget \$'000	Indicator
Salaries including superannuation	43.711	40.820	88.871	89.046	
Tipping & waste services	17.308	18.510	34.617	33.214	
Utilities (electricity / water / gas)	3.575	3.657	7.150	7.947	
Software licenses	2.019	2.149	4.038	4.229	
Contributions - NSW Fire / SES / RFS	1.881	1.881	3.761	3.761	
Insurance	2.729	3.133	3.079	3.579	
Contracted labour (agency)	1.388	1.418	2.777	2.084	
Tipping (hazardous waste)	0.685	1.143	2.401	1.101	
Borrowing costs	1.248	1.022	2.496	7.500	
Professional services	1.110	1.697	2.041	3.440	
Workers compensation	1.027	0.781	2.053	2.053	
Overtime	0.744	1.849	1.488	1.488	
Legal costs	0.724	1.032	1.448	1.821	
Internet (data)	0.579	0.459	1.157	1.107	
Consultants	0.420	1.227	0.840	1.643	

Risks & Opportunities

The following risks and opportunities have been identified with the potential to change the projected budget result for FY 2023/24.

- i) FAG Operating Grant [*Risk Probability: Low/Moderate*] – The NSW Grants Commission fully paid 2023/24 financial assistance grant in advance. Any change to their position for FY2024/25 is not known at this stage.
- ii) Net Loss from Disposal of Assets [*Risk Probability: Highly Likely*] – As part of the road renewal process, a portion of the road surface is scrapped off and then replaced. The replacement cost is capitalised, however, there is a written down value attached to the portion removed. The cost of write-off depends on the condition of the road at time of renewal and depth of surface removed.

Cash Reserves

At 31 December 2023, Council had \$376 million in cash and investments classified as follows:

	<i>Opening Balance 1 Jul 2023</i>	<i>Closing Balance 31 Dec 2023</i>
Externally Restricted		
S711 Contributions	280,969,884	296,066,005
City Development Fund	379,285	443,307
Domestic Waste Reserve	1,324,273	3,346,968
Environment Levy	5,928,977	6,350,269
Stormwater Reserve	868,572	1,569,692
Edmondson Park Reserve	2,859,276	2,917,310
Contribution Reserve	3,340,407	3,340,407
Grants Reserve - Capital	11,538,211	9,040,588
Grants Reserve - Operating	413,756	405,446
Better Waste & Recycling Reserve	1,861	0
Deferred Grants Reserve - Capital	36,932,973	44,844,296
Deferred Grants Reserve - Operating	7,169,256	1,680,355
Deferred WSIGP Interest	-	22,451
Total Externally Restricted	351,726,732	370,027,097
Internally Restricted		
Employee Leave Entitlement Reserve	4,484,000	4,484,000
Insurance Reserve	1,796,043	1,796,043
Parking Strategy Reserve	2,578,921	1,493,226
General Property Reserve	7,164,084	5,634,549
Loan Reserve	54,208,072	-
Carnes Hill Stage 2 Precinct Development Reserve	4,290,076	4,277,206
Moorebank Intermodal Company Ltd Ex-Gratia Funds	524,796	524,796
Temporary funding LCP	-	(13,400,000)
Total Internally Restricted	75,045,990	4,809,819
Unrestricted Cash - Net Position	25,640,191	974,199
Total Cash and Investments	452,412,913	375,811,114

ATTACHMENTS

1. Budget Analysis - Q2 Projections

ITEM 06

Disability Inclusion Action Plan 2024 – 2028

Strategic Objective	Healthy, Inclusive, Engaging Promote a harmonious community that celebrates its diversity
File Ref	017176.2024
Report By	Jacqueline Newsome - Coordinator Community Development
Approved By	Tina Bono - Director Community & Lifestyle

EXECUTIVE SUMMARY

Liverpool’s draft Disability Inclusion Action Plan (DIAP) 2024 – 2028 is a four-year plan which outlines Council’s ongoing commitment to supporting equity and inclusion for people with disability, their families and carers in Liverpool. The draft DIAP sets out a comprehensive action plan which will guide Council in the delivery of programs, events and activities which promote access and inclusion for all community members.

A statutory review of the New South Wales Disability Inclusion Act (DIA) commenced in 2019 which resulted in amendments to the Act, including an update to the NSW DIAP Guidelines. The new Act – the *Disability Inclusion Amendment Act (2022)* - requires that:

- DIAPs must now be remade (not just reviewed) every four years;
- DIAPs must be made available in one or more formats accessible to people with disability; and
- DIAPs must include reference to intersectionality and highlight inclusion of the needs of the LGBTIQ+ people with disability.

The draft DIAP was developed in consultation with key internal and external stakeholders and considers the changes to legislation and NSW DIAP Guidelines 2022. A desktop analysis and peer review were undertaken by an external party to compare and understand how Council’s services compared to neighbouring and leading councils to ensure the development of an inclusive and detailed Plan for Liverpool.

The draft DIAP identifies four key focus areas, aligned with those outlined in the NSW Disability Inclusion Plan 2021 - 2025, developed by the NSW Department of Communities and Justice (DCJ). These focus areas align with the Australian National Disability Strategy and Australia’s obligations under the United Nations Convention on the Rights of Persons with Disabilities.

RECOMMENDATION

That the Committee recommends Council:

1. Endorse the draft Disability Inclusion Action Plan 2024 – 2028 to be placed on public exhibition for a period of 28 days; and
2. Receive a post-exhibition report to Council on the draft Disability Inclusion Action Plan 2024 – 2028 incorporating community feedback or, if no significant feedback is received, direct the Chief Executive Officer (CEO) to adopt the draft Disability Inclusion Action Plan 2024 – 2028 on behalf of Council.

REPORT

Background

The *NSW Disability Inclusion Amendment Act 2022* (the Act) requires all Council's in New South Wales to prepare a Disability Inclusion Action Plan (DIAP). Council recognises the range of important social, economic, and cultural reasons, as well as the legislative requirements, for creating an effective strategy of inclusion which supports people with disability, their families and carers.

Liverpool's draft DIAP 2024 – 2028 is a four-year plan which outlines Council's ongoing commitment to supporting equity and inclusion for people with disability, their families and carers in Liverpool. The draft DIAP sets out a comprehensive action plan which will guide Council in the delivery of programs, events and activities which promote access and inclusion for all community members.

The draft DIAP 2024 – 2028 identifies four key focus areas, aligned with those outlined in the NSW Disability Inclusion Plan 2021 – 2025, developed by the NSW Department of Communities and Justice (DCJ). These focus areas align with the Australian National Disability Strategy and Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities.

The focus areas have been identified as being of primary importance to people with disability, their families and carers in creating an inclusive community. The key focus areas are:

- Developing positive community attitudes and behaviours;
- Creating liveable communities;
- Supporting access to meaningful employment; and
- Improving access to services through better systems and processes.

Changes to legislation

A statutory review of the New South Wales Disability Inclusion Act (DIA) commenced in 2019 which resulted in amendments to the Act, including an update to the NSW DIAP Guidelines. The new Act – the *Disability Inclusion Amendment Act (2022)* - requires that:

- DIAPs must now be remade (not just reviewed) every four years;
- DIAPs must be made available in one or more formats accessible to people with disability; and
- DIAPs must include reference to intersectionality and highlight inclusion of the needs of the LGBTIQ+ people with disability.

To comply with the new Act, Council was obliged to review its DIAP and ensure the legislative requirements were met before submitting to the Department of Communities and Justice (DCJ). The amendments to the Act related to intersectionality and highlighting inclusion of the needs of LGBTIQ+ people, along with acknowledging the unique needs of all people with disability, have been incorporated into Council's draft DIAP 2024 – 2028 to ensure that Liverpool remains compliant with the relevant legislative requirements.

Once the draft DIAP has been finalised and adopted, Council will investigate suitable accessible formats including easy-read English, pictorial representations and translated materials.

Methodology and development of the DIAP 2024 – 2028

The draft DIAP 2024 – 2028 was drafted internally by the Community Development team. The process of drafting this Plan included the following actions:

- A desktop review of the existing DIAP (2017 – 2021) to identify achievements, ensure currency and appropriateness of language and terminology, and identify areas for improvement;
- Consultation with relevant internal and external stakeholders of the draft DIAP 2024 – 2028 including the Liverpool Access Committee, disability service providers, and relevant Council business units; and
- Engagement of Cred Consulting to conduct a peer review of the draft DIAP to benchmark against neighbouring and leading councils to ensure the Plan was aligned with industry best practice and ensure compliance with the changed legislation.

Conclusion

Following Council's endorsement of this draft, the DIAP will be placed on public exhibition for a period of 28 days. During this exhibition period, further community consultation will occur to ensure the draft DIAP is reflective of the Liverpool communities' needs and goals. At the conclusion of this public exhibition period, a further report will be brought to Council which details the content of any submissions received and their effect on the draft DIAP.

Should there be no significant feedback received from the community, it is recommended that Council direct the CEO to adopt the draft Disability Inclusion Action Plan 2024-2028 on behalf of Council.

FINANCIAL IMPLICATIONS

Costs associated with this recommendation have been included in Council's budget for the current year and long-term financial plan.

CONSIDERATIONS

Economic	There are no economic and financial considerations.
Environment	There are no environmental and sustainability considerations.
Social	Promote community harmony and address discrimination.
Civic Leadership	Encourage the community to engage in Council initiatives and actions. Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.
Legislative	There are no legislative considerations relating to this report.
Risk	There is no risk associated with this report.

ATTACHMENTS

1. Draft Disability Inclusion Action Plan 2024 - 2028

