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**CCL 27/04/21 - PUBLIC EXHIBITION OF DRAFT COMMUNITY
INFRASTRUCTURE INCENTIVES POLICY**

PAGE 3 **ITEM-33** **Attachment A:** Draft Community Infrastructure
Incentives Policy

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Policy

Community Infrastructure Incentives

Table of Contents

Part A Preliminary	1
1 Purpose	1
2 Objectives	1
3 Scope.....	1
4 Principles	2
Part B Context.....	3
5 Implications of planning decisions	3
6 Community Infrastructure	3
Part C – Approach.....	4
7 Development incentives.....	4
Part D – Implementation.....	5
8 Mechanisms.....	5
9 Development proposals	6
Annexure A - Definitions	7
Annexure B - Policy Authorisations.....	9
Document Control.....	10

Part A - Preliminary

1 Purpose

- 1.1 The purpose of this Policy is to enhance the delivery of community infrastructure to support urban renewal in the City of Newcastle (CN) through the provision of Development incentives.

2 Scope

- 2.1 This Policy only applies to land within the Newcastle Local Government Area (LGA) that is identified as suitable for accommodating an increase in density within:
 - 2.1.1 The Greater Newcastle Metropolitan Plan
 - 2.1.2 An adopted strategy or plan of Council
 - 2.1.3 A land use study or analysis prepared by or for CN to inform a planning decision by the Council.
- 2.2 CN will implement this Policy by the following means:
 - 2.2.1 Including provisions within the Local Environmental Plan (LEP) that enable an increase in density as an incentive, on land identified by the Floor Space Ratio (FSR) and/or Height of Buildings (HOB) map, where proposed development delivers community infrastructure. The LEP provisions will identify the maximum incentive available on the land.
 - 2.2.2 A Development Control Plan (DCP) that identifies the community infrastructure CN seeks to deliver, for which the LEP incentives may apply to. The DCP guides how the level of incentive is determined having regard to the value of the community infrastructure proposed and the incentive Gross Floor Area (GFA) rate.
 - 2.2.3 Publishing the 'Incentive GFA rate' in CN's annual Fees and Charges for the land to which the incentive applies in the LEP.
- 2.3 This Policy does not provide a means of varying development standards for individual proposals outside the parameters identified above.
- 2.4 This Policy complements the existing Local Infrastructure Contributions framework. However, any outcomes of this Policy are independent of those delivered by a plan of the Council under Section 7.18 Contributions plans—making of the Environmental Planning and Assessment Act 1979 (NSW) (the Act). Nothing in this Policy affects the development contributions imposed as a condition of consent under Section 7.11 or 7.12 of the Act.

3 Principles

- 3.1 CN commits itself to the following:
- 3.1.1 Equity – by ensuring the benefits of urban renewal are shared through development incentives that facilitate community infrastructure.
 - 3.1.2 Certainty – by identifying the potential development incentives available on identified land and the requirement for achieving these, both applicants and the community understand the potential built outcomes and the community infrastructure to be delivered by way of the incentive.
 - 3.1.3 Transparency – by implementing the development incentives in the LEP and identifying community infrastructure in the DCP, enabling community input and transparency independent of any development proposal.
 - 3.1.4 Voluntary – nothing in this Policy compels an applicant to access available development incentive for their land. Applicants can decide voluntarily if they wish to access additional GFA when preparing a development proposal. Likewise, this Policy does not reduce Council’s obligation to ensure that all planning decisions are based on sound evidence, justification on planning grounds, and considered to be in the best public interest.
 - 3.1.5 Consistency – by ensuring CN has regard for this Policy when reporting to Council on potential increases in density through an amendment to the LEP development standards.

Part B - Context

4 Implications of planning decisions

- 4.1 CN recognises that planning decisions have the potential to promote urban renewal and an intensification of land uses, which in the right location and circumstance provide benefit to:
 - 4.1.1 the broader community, through provision of additional housing and employment, to meet existing and future demands consistent with population projections and emerging trends
 - 4.1.2 landowners, through increase in land value, which provides greater returns on investment at time of sale, as well as an increase in financial equity
- 4.2 Planning decisions promoting urban renewal also have the potential to impact existing local communities due to:
 - 4.2.1 change in local character and amenity
 - 4.2.2 inconveniences and impacts of increased construction activity
 - 4.2.3 increased local traffic and demand for parking
 - 4.2.4 increased demand on and for community infrastructure.

5 Community Infrastructure

- 5.1 New development is ordinarily required to contribute toward the provision of community infrastructure as a condition on consent being applied under Section 7.11 or Section 7.12 of the Act.
- 5.2 However, in areas identified for increased density local government is limited by:
 - 5.2.1 the amount able to be charged in comparison to the full cost of providing the infrastructure and services required by the community
 - 5.2.2 the type of items that may be funded by contributions in comparison to the expanded range of facilities and services local government is responsible for providing
 - 5.2.3 The timeframe to collect or recoup adequate funds necessary for delivering community infrastructure.
- 5.3 CN recognises that the timely delivery of community infrastructure is essential to support the urban renewal and development process. This Policy aims to facilitate the enhanced delivery of community infrastructure through the provision of appropriate development incentives to support urban renewal.
- 5.4 In this Policy, community infrastructure may be delivered to CN in the form of land, works, a monetary contribution, or a combination of these.

Part C – Approach

6 Development incentives

- 6.1 In areas identified as suitable for supporting a change in land use/s and/or an increase in density of existing uses (as outlined in Section 2.1), CN will determine the maximum development incentives available based on the potential development standard to be applied, on potential development sites, where satisfied that the potential development outcomes meet the following criteria:
 - 6.1.1 reflect the envisaged character and scale of the local area
 - 6.1.2 are justified on planning grounds
 - 6.1.3 are feasible, having regard for the cost of delivering community infrastructure
 - 6.1.4 result in the enhanced delivery of community infrastructure
 - 6.1.5 result in a net public benefit to the local community.
- 6.2 CN will identify and determine the cost of delivering potential community infrastructure, which:
 - 6.2.1 address the immediate, intermediate, and long term needs of the area likely to experience change
 - 6.2.2 improve the amenity of the public domain
 - 6.2.3 expedite implementation of actions identified within an adopted plan or strategy
 - 6.2.4 are not otherwise provided for within an adopted contribution plan
 - 6.2.5 meets the required standards determined by CN.
- 6.3 CN will establish an 'Incentive GFA Rate' for an identified area, which will be used to determine the development incentive increase to be included in the development standard provided based on the additional density achieved in return for providing community infrastructure.
- 6.4 The 'Incentive GFA Rate', will be determined having regard to the following:
 - 6.4.1 the estimated cost for providing identified community infrastructure within the identified urban renewal area, expressed in dollars.
 - 6.4.2 the potential incentive GFA that will be made available within the identified urban renewal area, expressed in square meters.
 - 6.4.3 the Incentive GFA Rate, being the proportion calculated by dividing the cost of community infrastructure projects (in 7.4.1) by the total GFA uplift in the urban renewal area (in 7.4.2) and expressed as dollars per square metre.
 - 6.4.4 Feasibility testing to compare likely development scenarios using a feasibility modelling approach, to determine if the proposed '*Incentive GFA rate*' enables a more viable outcome than the current LEP development standards to an extent where the outcome represents an incentive worth pursuing when weighed up against the potential additional risk.
 - 6.4.5 Where feasibility testing determines the incentive to be unviable, CN may review the priority or scope of potential community infrastructure projects.
 - 6.4.6 Despite the above, in certain circumstances CN may identify that an increase in density does not equate to improved development feasibility outcomes, regardless of the Incentive GFA Rate. In such circumstances the envisaged development outcomes may require further consideration to determine if increased density is warranted under current property market conditions.

Part D – Implementation

7 Mechanisms

- 7.1 CN will implement this Policy through amendment of the Newcastle LEP 2012 (LEP) to increase the following development standard/s on land identified on:
 - 7.1.1 FSR map, up to the maximum incentive, to provide additional GFA to prospective development proposals.
 - 7.1.2 HOB map, up to the maximum incentive, to enable the realisation of GFA available to prospective development proposals from the FSR.
- 7.2 CN will include provisions within the LEP allowing for the transfer of GFA from land dedicated for community infrastructure onto the residual development parcel.
- 7.3 CN will introduce provision within the DCP to guide the preparation and assessment of development proposals seeking to access a development incentive on land identified within the LEP. Development controls will address such matters as:
 - 7.3.1 eligibility criteria for development proposals to determine suitability for attracting an incentive and the extent of incentive that may be applied
 - 7.3.2 identification of the particulars of the community infrastructure sought through the incentives offered
 - 7.3.3 the method for determining the level of incentive available for the provision of community infrastructure.
- 7.4 The established Incentive GFA Rate for a specified location will be published within the Schedule of Fees and Charges of the Newcastle Operational Plan, under Section 608 of the *Local Government Act 1993* (NSW). The Incentive GFA Rate is a 'charge' at full cost recovery for a 'service' (provision of community infrastructure) where provided on behalf of development seeking to access available incentive density on land. CN will review and index the Incentive GFA Rate annually.
- 7.5 Notwithstanding this part, CN may enter into an individual Planning Agreement, made under Section 7.4 of the Act, with a planning proposal seeking to achieve increased density, where consistent with Newcastle Planning Agreement Policy and justified:
 - 7.5.1 having regard for the principles of this Policy
 - 7.5.2 using the approach of this Policy to identify specific community infrastructure to be delivered under the agreement
 - 7.5.3 having regard for the value of the community infrastructure offered and the additional GFA the planning proposal will deliver, to determine the Incentive GFA rate
 - 7.5.4 based on the delivery of a net positive benefit to the local community.

8 Development proposals

- 8.1 The provision of a development incentive on land, because of this Policy, does not:
 - 8.1.1 provide for the relaxation of any other development standard and/or development controls applying to the land or the particular proposal.
 - 8.1.2 impose an obligation on the Council to consent to a development proposal seeking to apply the incentive.
 - 8.1.3 have effect on the development contributions imposed as a condition of consent under Section 7.11 or 7.12 of the Act.
 - 8.1.4 result in the imposition of additional cost to CN, where not already allocated for such purposes.
- 8.2 CN will consider all ongoing maintenance and liability costs when identifying, planning, and accepting community infrastructure under this Policy.

Annexure A - Definitions

The Act means the *Environmental Planning and Assessment Act 1979* (NSW), unless where identified otherwise.

CEO means Chief Executive Officer of the City of Newcastle and includes their delegate or authorised representative.

References to the Chief Executive Officer are references to the General Manager appointed under the *Local Government Act 1993* (NSW).

City of Newcastle (CN) means Newcastle City Council.

Community infrastructure means works, services and land provided and maintained by or on behalf of CN, for:

- recreation
- community facilities
- conservation
- public roads, walkways and cycleways
- drainage
- public car parking
- public domain improvement.

Council means the elected Council. A decision of the Council is taken to mean a decision by the elected Council or its delegates.

DCP means any part of Newcastle Development Control Plan 2012.

Density means the quantitative rate used to measure the concentration of development on land. Under the LEP Density is measured by FSR, with an 'increase in Density' meaning an increase in the amount of GFA able to be accommodated on a site.

Development Incentive means a Clause within the LEP, which enables a variation to development standards in order to increase development yield by way of GFA, based on the development meeting certain requirements.

Development contribution means the provision of money, or an agreed commodity of monetary value, by an applicant, toward the delivery of an identified item of Community infrastructure by or on behalf of CN. Development Contribution in this Policy refers to the required payment of money identified as a condition of consent to development, under an adopted plan of the Council. For more information refer to Section 7.11 or 7.12 of the Act.

FSR means floor space ratio, which is determined by dividing site area by the GFA. See the Newcastle LEP 2012 for more information.

GFA means Gross Floor Area and is the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,
but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and

- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

HOB means Height of Building. See Newcastle Local Environmental Plan 2012 for more information.

Incentive GFA rate means the dollar value applied to each square metre of GFA provided to development as an incentive under the LEP.

LEP means Newcastle Local Environmental Plan 2012.

Unless stated otherwise, a reference to a section or clause is a reference to a section or clause of this Policy.

Annexure B - Policy Authorisations

Function	Position Number / Title

Document Control

Policy title	Community Infrastructure Incentives
Policy owner	Manager Regulatory Planning and Assessment
Policy expert/writer	Section Manager Urban Planning
Associated Procedure Title (if applicable)	Newcastle Development Control Plan 2012 – Part 6 Locality Specific Provisions. Note: Procedures will be incorporated into relevant sections under this part, when CN nominates to apply this policy to a given locality.
Procedure owner (if applicable)	Manager Regulatory Planning and Assessment
Prepared by	Regulatory, Planning & Assessment
Approved by	Council
Date approved	To be completed by Legal
Policy approval form reference	ECM#
Commencement Date	To be completed by Legal
Next revision date (date Policy will be revised)	To be completed by Legal
Termination date	To be completed by Legal (one year post revision date)
Version	Version number (versions mean adopted versions only)
Category	Choose an item.
Keywords	Building, Community, FSR, GFA, Infrastructure, Density, Development, Height, Incentive, Infrastructure, Standard, Urban, Variation
Details of previous versions	Nil
Legislative amendments	Nil
Relevant strategic direction	Vibrant and Activated Public Places
Relevant strategy	Newcastle Local Strategic Planning Statement 2019
Relevant legislation/codes (reference specific sections)	This Policy supports CN's compliance with the following legislation: <i>NSW Environmental Planning and Assessment Act 1979</i>

Other related policies/ documents/ strategies	Newcastle Planning Agreement Policy 2021 Wickham Masterplan 2017
Related forms	Nil
Required on website	Yes
Authorisations	Functions authorised under this Policy at Annexure B