

1 February 2010

Mr John McKee
General Manager
Ku-ring-gai Council
Locked Bag 1056
PYMBLE NSW 2073

By e-mail: kmc@kmc.nsw.gov.au

Dear Mr McKee,

Re: S05878 – Draft Ku-ring-gai Contributions Plan Exhibition

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment, to engage in constructive dialogue with government and the community.

We have reviewed the *Draft Ku-ring-gai Contributions Plan 2009* ("the plan") and provide the following comments for your consideration.

1. There is a shortage of land that can be developed for compact, pedestrian friendly living within the inner and middle ring suburbs

There is a chronic shortage of land for urban development, including land that can be developed for compact, pedestrian friendly living in Sydney's inner and middle ring suburbs. This shortage is making residential development more expensive, which in the end is making housing in Sydney less affordable.

The problem of housing affordability in Australia is a function of strong demand and limited supply.¹ This is particularly the case in the Sydney market. To make housing more affordable, we need to get more homes built and onto the market. Unfortunately, unless significant initiatives are put in place so that there are improvements on the cost and availability of land, housing prices will continue to escalate.

At its core, the shortage of land arises for two reasons. Firstly, insufficient land is zoned to permit higher density urban development, and even when zoning is nominally made, development is often made impossible by absurd development controls. Secondly, when land is made available, levies are set so high that development projects are unable to generate profits commensurate with their risk profile, and therefore projects cannot attract equity funding, and do not proceed. **The plan will block development** for the second reason.

The plan proposes levies of up to \$52,000 for detached homes and up to \$34,000 for apartments. The levies for apartments would be Sydney's highest - topping even the City of Sydney's current apartment levies. Retail development would be levied as much as \$340 per square metre, and business development will be levied at up to \$148 per square metre. These levies will stop many development projects as effectively as a hostile zoning plan.

Those within the community and Council who argue for increases in development levies are mistaken if they believe that the developer ultimately bears the costs of new or increased developer charges. It is the homebuyer who must pay. This is because modern capital is mobile. It flows to wherever it gets the best return. A local developer will not be able to secure

¹ Commonwealth of Australia *A good house is hard to find: Housing affordability in Australia* (2008).

equity for a development unless the rate of return is equal or better than investments of a similar risk profile in other industries, states or countries.

In order to ensure that a market rate of return is achieved, a developer will either reduce the amount of money paid for undeveloped land, or increase the price paid by the home buyer. However, often the home buyer cannot afford an increase in land price due to a new or increased levy because there is a ceiling on the price that home buyers are able to pay, i.e. their borrowing capacity. The maximum amount that home buyers are able to borrow is in turn based on their income. Without increases in income, home buyers are unable to pay more for new homes. As a result, any project, which cannot be delivered at a price home buyers currently can afford, simply won't get built.

Council must be mindful of the impact that increases in developer contributions will have on land and housing affordability. Council must recognise that if it makes development too expensive, developers will simply look for an alternative market. This may seem attractive to the anti-development lobby, but without an appreciable increase in development, housing affordability will continue to be a challenge.

That's why, in part, the supply of new houses in NSW has almost completely dried up. State, federal and local council charges cannot be afforded by anyone – land owners, developers or home buyers. So the homes simply don't get built.

2. Development profits are not bottomless

Council asserts that land acquisition costs are the most significant proportion of development costs and that developer contributions, in the Ku-ring-gai context, are such a minor percentage of the total project cost they cannot be considered as a factor impacting to a great extent on project feasibility.²

Land costs in the Ku-ring-gai local government area, are clearly significant, but it is strange that Council would consider a developer contribution of up to 4.1 per cent of total project cost to be insignificant.³ It's also odd that council seems to have accepted the proposition that any reduction in a contribution rate would simply be retained as developer profits.⁴

This same logic could be used to justify any imposition on the development of new homes, commercial office and retail space. Taken to its logical conclusion, council could argue that developer profits are bottomless, so that the entire council budget can be funded from a levy on new development. In reality, of course, there is a limit to the amount of money council can levy, before a developer's profits are too low to justify proceeding with a project. These proposed levies will harshly impact on the viability of development in the Ku-ring-gai town centres.

The analysis presented in the report is flawed because of the following reasons.⁵

- The analysis says the reduction in contributions would not achieve a significant reduction in the proportion of contributions to the total project cost because the "average reduction" is 0.5 per cent.
 - This is a 'straw man' argument, because the cost of reducing the levies to \$20,000 is taken as the base case, or low levy scenario. The high levies \$(e.g. \$34,000 for an apartment; \$52,000 a house) are compared with this absurd base case and it is then argued the difference between the two is negligible. We agree on one thing - \$20,000-\$34,000 levies on apartments are ridiculous. For that matter, so too would a \$15,000 levy on an apartment. Levies of this order cripple housing supply, so an 'affordability' analysis that merely compares one high levy scenario with another is laughable.

² Ku-ring-gai Draft Contributions Plan 2009, 29-30.

³ Ibid 30.

⁴ Ibid.

⁵ Ibid.

- Not every project is “average” - in fact projects are mostly not – an analysis that only looks at averages, without looking at the degree of variation to the average is fundamentally flawed. “Average” does not mean “most”.
- Development projects compete against each other and other forms of investment for equity funding. If the profits are marginal, when compared to other investments of the same risk class, even an impost which represents a small percentage of overall costs is capable of depriving projects of their access to equity capital.
- The analysis says there are other factors of greater influence.
 - The fact that there are other factors that are also capable of killing a project, does not mitigate the responsibility of the council for ensuring that high development levies do not kill projects.
- The analysis says there is likely to be a relatively initial small benefit to development in the short-term, by allowing a reduction in prices in the order of 0.4-1.9 per cent. It says that in some cases a price reduction would be unlikely and in the longer term, such reductions would be likely to be withheld from the market as developer profit.
 - This ignores the fact that the most serious impact of affordability does not arise on the basis of a direct, simple pass-through of the development levy. The impact on affordability is felt when a levy makes projects unviable. Insufficient new homes are developed to match demand, and the demand/supply imbalance forces the prices of homes up generally. The analysis does not adequately consider this reality.

3. Council's land acquisition costs do not justify the proposed levies

Council seems to suggest that high land acquisition costs are also to blame for the high developer contribution rate. That is, the draft works programme, funded by developer contributions is significantly influenced by the need to acquire land at an elevated price.⁶ However, a review of the works programme indicates that land acquisition, while significant to some programmes (parks/open space,) are by no means the majority of the case and is certainly not a fair justification for such a high developer contribution rate in an established area.

The exceedingly high contribution rate is heavily influenced by an overly ambitious works programme. A works programme, that splurges on projects, that do not genuinely fall into the category of “key community infrastructure”, needed to meet the needs of a growing residential population.

Furthermore, while Council may not be able to greatly influence market value of land, it certainly has ultimate control over the works programme and rate of developer contributions. Council has within its power to limit developer contributions to a modest level (well below the so-called \$20,000 cap) and tailor a works programme to suit this level of contribution. By adopting such a strategy, Council would be making a positive contribution to housing affordability within a desirable established area.

It is interesting to note that the maximum contribution possible under the previous Ku-ring-gai contributions plan was \$53,500 per dwelling. The Minister for Planning granted an exemption to Ku-ring-gai Council to exceed the \$20,000.00 cap on the understanding that the Ku-ring-gai plan would be reviewed. Council has completed its review and “surprisingly” the maximum contribution possible under this draft plan still exceeds \$52,000.⁷

If this plan was to be made, it would make Ku-ring-gai Council one of the councils with the highest developer contributions – and the highest for apartment development. In fact, though Ku-ring-gai is an established inner ring suburb, it proposes to tax development at a rate far

⁶ Ibid 29.

⁷ Ku-ring-gai Draft Contributions Plan 2009 accessed on line 20 January 2010 [<http://www.kmc.nsw.gov.au/resources/documents/p1-60.pdf>]. pp. 8-9

greater than councils managing high growth outer suburban areas such as Blacktown, Camden, Campbelltown, Hawkesbury, Liverpool and Penrith council areas.

4. Excessive levies will result in reduced urban renewal

The Urban Taskforce urges the Council to properly consider the impact that levies will have on town centre renewal. Little or no development activity means no urban renewal, which, if allowed to continue, will mean centres, including Gordon, Lindfield, Pymble, Roseville, St Ives, Turramurra and Wahroonga, will not attract the level of development expected. Reduced development means less developer contributions which ultimately mean that there will be no new paving, lighting, undergrounding power lines or village greens.

If Council is concerned with supporting its local economy and encouraging urban renewal, then it must look closely at the cumulative total of developer fees and must recognise that if it makes development too expensive, developers will simply look for an alternative market. Without an appreciable increase in redevelopment, housing affordability and town centre upgrades will continue to be a challenge and local economic growth will be severely restricted.

5. The Ku-ring-gai plan is not fair and reasonable

The Urban Taskforce has made numerous submissions to Government on the importance of ensuring development fees and charges are reasonable. In this regard, we strongly argue for careful consideration of nexus, apportionment and reasonableness. We also encourage an element of market reality when determining development charges, particularly when preparing contributions plans.

The Urban Taskforce is of the view that Council's draft works programme demonstrates that the principles of reasonableness, particularly apportionment, have not been properly followed. One need only review the projects listed for town centre improvements for evidence of unreasonable demands for contributions to fund outrageous and elaborate town centre improvement works. Contributions that are imposed only on those who wish to develop new property assets, even though these works will benefit the new and existing population.

The Metropolitan Strategy for Sydney suggests that the Ku-ring-gai local government area should aim to provide an additional 10,000 dwellings over the next 21 years. This would result in the number of dwellings increasing from approximately 36,175⁸ to 46,175 dwellings by 2031. This equates to approximately a 22 per cent increase in dwelling numbers over a 21 year period. The Ku-ring-gai contributions plan would have us accept that due to a targeted 1.04 per cent yearly increase in dwelling numbers, the Ku-ring-gai town centres of Gordon, Lindfield, Pymble, Roseville, St Ives and Turramurra will be in desperate need of:

- "large format pavers and landscaping" at a cost of \$36,720,997;⁹
- "street and pedestrian lighting" at a cost of \$10,389,533;¹⁰
- "undergrounding and aerial bundling of overhead powerlines" at a cost of \$51,706,690;¹¹

⁸ Australian Bureau of Statistics. 2006 Census QuickStats: Ku-ring-gai (A) (Local Government Area) Latest Issue released at 11:30 AM 25/10/2007, accessed on line 20 January 2010.

[<http://www.censusdata.abs.gov.au/ABSNavigation/prenav/LocationSearch?locationLastSearchTerm=ku-ring-gai&locationSearchTerm=ku-ring-gai&newarea=LGA14500&submitbutton=View+QuickStats+%3E&mapdisplay=on&collection=Census&period=2006&areacode=LGA14500&geography=&method=Place+of+Usual+Residence&productlabel=&producttype=QuickStats&topic=&navmapdisplayed=true&javascript=true&breadcrumb=PL&topholder=0&leftholder=0¤taction=104&action=401&textversion=false&subaction=1>]

⁹ This figure is derived from the sum of total capital costs for paver streetscape works for each town centre. Reference should be made to the works programmes contained in the Ku-ring-gai Draft Contributions Plan 2009 accessed on line 20 January 2010 [<http://www.kmc.nsw.gov.au/resources/documents/p196-218.pdf>]. pp. 203, 205, 207, 209, 211 & 213

¹⁰ This figure is derived from the sum of total capital costs for street and pedestrian lighting works for each town centre. Reference should be made to the works programmes contained in the Ku-ring-gai Draft Contributions Plan 2009 accessed on line 20 January 2010 [<http://www.kmc.nsw.gov.au/resources/documents/p196-218.pdf>]. pp. 204, 206, 208, 209, 212 & 214

¹¹ This figure is derived from the sum of total capital costs for undergrounding and aerial bundling of overhead powerlines for each town centre. Reference should be made to the works programmes contained in the Ku-ring-gai Draft Contributions

These works alone equate to \$98,817,220. Include:

- footpath upgrades and planter boxes for Wahroonga; and
- town squares, village greens and embellishments for Gordon, Lindfield, Roseville, St Ives and Turramurra,

The cost of these town centre works alone blows out to \$116,429,370. This is not even the total cost for all proposed town centre improvements.

The total works programme for Ku-ring-gai is a staggering \$432,434,562 of which \$174,289,561 is directed towards town centre improvements¹².

Surely Council is not suggesting that these works are needed because of the possible population increase over the next 21 years? Council can't expect the community to accept that it is fair and reasonable that the 10,000 new home buyers should foot the bill for works that will clearly benefit the entire local population, not just the new entrants.

How does a 1.04 per cent yearly increase in dwelling numbers bring about an urgent need to underground power lines and pave streets with "large format pavers" at a cost exceeding \$88 million dollars?

Council must review the works programme before proceeding. A works programme that is so bloated that savings can easily be found to enable at least very significant reductions in contribution rate.

The Urban Taskforce expresses grave concern with the imposition of such a tax on development. This exorbitant charge, when added to possible housing affordability contributions and the high acquisition cost of land and the numerous other charges, could result in the cost of producing dwellings in the Ku-ring-gai local government area being higher than the market value. This simply means that no development occurs; demand for housing continues to outstrip supply and hence housing remains out of reach of many.

Notwithstanding any of the above, the Urban Taskforce is concerned with the lack of information provided in the exhibited draft contributions plan. The works schedules are little more than wish lists with dollars assigned. What exactly is the community getting for its \$174 million dollars worth of town centre improvements? Council can not in all honesty expect the community to accept significant project estimates without some detail to justify the cost. Loosely worded generalisations are not sufficient. Council must exhibit summary details of improvements upon which cost estimates were developed. Without appropriate project specification and justification Council is not being transparent and the community is unable to hold council accountable for project quality or delivery.

6. The Ku-ring-gai plan is all about cost shifting

It may well be that the majority of new housing in the Ku-ring-gai local government area occurs in and around the established town centres. Furthermore, it is accepted that new development and additional residential population may, in some circumstances, generate a need for the amplification of key community infrastructure. Council is well within its rights to seek a contribution from developers for the provision of this infrastructure. However, this does not mean that Council should see this as an opportunity to fund outlandish, extravagant town centre improvement plans that go well beyond the meaning of "key community infrastructure". A scan of the draft works programme suggests that much of the town centre works will not only benefit the existing population of Ku-ring-gai, but also works that should/could have been previously funded out of general funds. The draft works programme suggests the Council's attempt to shift the cost of general town centre maintenance and improvement works to the developer.

Plan 2009 accessed on line 20 January 2010 [<http://www.kmc.nsw.gov.au/resources/documents/p196-218.pdf>]. pp. 204, 206, 208, 210, 212 & 214

¹² Ku-ring-gai Draft Contributions Plan 2009 accessed on line 20 January 2010 [<http://www.kmc.nsw.gov.au/resources/documents/p1-60.pdf>]. p. 10

The Urban Taskforce is not alone to express concerns with local council cost shifting. Evidence and submissions presented to the Senate Select Committee on Housing Affordability in Australia supports our concerns. That is, because infrastructure costs are being transferred to the developer, local authorities may have a tendency to "gold-plate" excessively expensive infrastructure. For example, in his evidence to the Committee, Professor Troy stated that "we are very generous about what we do with road supplies.....one of the reasons that we do this is that now we have the developer paying for it....".¹³

Council may think that its contributions plan and contribution rate is justifiable and that reducing infrastructure charges may initially increase returns for landowners/developers, but the real benefit is that this reduction in cost will increase supply of land coming onto the market. An increase in supply must result in an overall reduction in cost.¹⁴

The Urban Taskforce implores Council to carefully consider the contents of this correspondence and apply an element of market reality and reasonableness when setting developer contribution rates.

These comments are offered to encourage constructive dialogue between government and the development industry and we ask that you accept these comments as our contribution to the policy development process. We are always able to provide a development industry perspective on planning policy and we would welcome the opportunity to meet and discuss these issues in more detail.

Yours sincerely

Urban Taskforce Australia

A handwritten signature in black ink that reads "Aaron Gadiel". The signature is written in a cursive style with a long horizontal stroke extending from the end of the name.

Aaron Gadiel
Chief Executive Officer

¹³ Commonwealth of Australia (2008) *A good house is hard to find: Housing affordability in Australia*, June 2008. pp. 110

¹⁴ BIS Shrapnel (2008) *Is there a housing crisis?* Summary of talk by Frank Gelber at the Melbourne Institute and the Australian 2008 Economic & Social Outlook Conference, 'New Agenda for Prosperity' 27 March 2008.