



# *Government Gazette*

of the State of

New South Wales

**Number 348–Planning and Heritage**

**Friday, 29 July 2022**

---

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, non-government and other notices.

Each notice in the Government Gazette has a unique reference number that appears in parentheses at the end of the notice and can be used as a reference for that notice (for example, (n2019-14)).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal, see the Gazette page.

# Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont Peninsula Metro) Direction 2022

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 7.24 of the *Environmental Planning and Assessment Act 1979*, give the following Direction.

ANTHONY ROBERTS, MP  
Minister for Planning

Dated: 11 July 2022

## 1 Name of Direction

This Direction is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont Peninsula Metro) Direction 2022*.

## 2 When Direction takes effect

This Direction takes effect on its publication in the Gazette.

## 3 Councils and other planning bodies to whom Direction is given

(1) This Direction is given to:

- (a) the Council of the City of Sydney (the *Council*), and
- (b) any other consent authority determining a development application in relation to land within the Pyrmont Peninsula Special Contributions Area to which this Direction applies.

(2) To avoid doubt, this Direction also applies to:

- (a) the Central Sydney Planning Committee (constituted by section 33 of the *City of Sydney Act 1988*) and any local planning panel when exercising, on behalf of the Council, the functions of the Council as a consent authority, and
- (b) any other officer or employee of the Council to whom the Council delegates its functions as a consent authority.

#### **4 Condition for special infrastructure contribution must be imposed on grant of development application**

- (1) A consent authority must impose the following condition on the grant of consent to a development application to carry out development within the Pymont Peninsula Special Contributions Area if a special infrastructure contribution is required to be made for that development under the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022*:

*A special infrastructure contribution must be paid in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022 (2022 Determination), as in force when this development consent takes effect.*

*A person must, in connection with an application for a construction certificate relating to development the subject of this development consent, provide the certifier with written evidence from the Department of Planning and Environment that the special infrastructure contribution for the development (or that part of the development for which the certificate is sought) has been paid.*

*If this development consent is modified and a further monetary contribution is required under the 2022 Determination, a person must, in connection with an application for the next construction certificate (or an amendment to an existing construction certificate) or other relevant certificate provide written evidence from the Department of Planning and Environment that the further monetary contribution has been paid.*

##### **More information**

*A request for assessment by the Department of Planning and Environment of the amount of a contribution that is required under this condition can be made through the NSW planning portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to [SIContributions@planning.nsw.gov.au](mailto:SIContributions@planning.nsw.gov.au).*

- (2) To avoid doubt, this clause extends to the grant of development consent for a stage of development on a site to which a development consent to a concept development application (the **first consent**) applies (other than for the first stage of development to which clause 5 (3) applies), even if the first consent was granted before this Direction takes effect and does not include a condition set out in clause 5.

#### **5 Special condition for concept development application**

- (1) This clause applies to a concept development application if the concept proposals for the development of the site include proposals for development (wholly or partly) on an urban intensification site within the Pymont Peninsula Special Contributions Area (**relevant concept development application**).
- (2) A consent authority must impose the following condition on the grant of consent to a relevant concept development application (other than a consent to which subclause (3) applies):

*The Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022 requires special infrastructure contributions to be paid for development within the Pymont Peninsula Special Contributions Area (within the meaning of that Determination).*

*Accordingly, any special infrastructure contribution imposed by a condition of consent to a subsequent development application in relation to land to which this consent applies is to be determined in accordance with that Determination, or any subsequent determination of the Minister under section 7.23 of the Environmental Planning and Assessment Act 1979, as in force when the later consent takes effect.*

- (3) A consent authority must impose the following condition on the grant of consent for the first stage of development set out in a relevant concept development application if the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022* requires a special infrastructure contribution to be made for that development:

*A special infrastructure contribution must be paid in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022 (2022 Determination), as in force when this consent takes effect, for the first stage of development to which this consent applies.*

*A person must, in connection with an application for a construction certificate relating to the first stage of development, provide the certifier with written evidence from the Department of Planning and Environment that the special infrastructure contribution for the first stage of development (or that part of the development for which the certificate is sought) has been paid.*

*If this development consent is modified and a further monetary contribution is required under the 2022 Determination in relation to the first stage of development, a person must, in connection with an application for the next construction certificate (or an amendment to an existing construction certificate) or other relevant certificate provide written evidence from the Department of Planning and Environment that the further monetary contribution has been paid.*

*A special infrastructure contribution may also be required for further development that consists of, or involves, development on the land to which this consent applies.*

*Any special infrastructure contribution imposed by a condition of consent to a subsequent development application is to be determined in accordance with the 2022 Determination, or any subsequent determination of the Minister under section 7.23 of the Environmental Planning and Assessment Act 1979, as in force when that later consent takes effect.*

#### **More information**

*A request for assessment by the Department of Planning and Environment of the amount of a contribution that is required under this condition can be made through the NSW planning*

portal (<https://www.planningportal.nsw.gov.au/special-infrastructure-contributions-online-service>). Please refer enquiries to [SIContributions@planning.nsw.gov.au](mailto:SIContributions@planning.nsw.gov.au).

**Note to consent authorities.** When imposing a condition for a special infrastructure contribution on the grant of consent to a subsequent development application to which consent to a concept development application applies, the consent authority is to impose the condition in the terms set out in clause 4 of this Direction.

## 6 Pending development applications

This Direction extends to development applications made, but not finally determined, before this Direction takes effect.

## 7 Definitions

(1) In this Direction:

*concept development application* has the same meaning as it has in the *Environmental Planning and Assessment Act 1979*, as set out in section 4.22 of the that Act.

*Pymont Peninsula Special Contributions Area* means the special contributions area of that name, as described in Schedule 4 to the *Environmental Planning and Assessment Act 1979*.

*urban intensification site* has the same meaning as it has in the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022*.

(2) Words or expressions in this Direction have the same meanings as they have in the *Environmental Planning and Assessment Act 1979*.

### Important note to local councils and other certifiers:

A council or registered certifier must not issue a certificate under Part 6 of the *Environmental Planning and Assessment Act 1979* (or strata certificate) if the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont Peninsula Metro) Determination 2022* requires a contribution to be made before the certificate is issued. (See section 7.24 (3A) of the Act and also other prohibitions in Part 6 of the Act and the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* on the issue of certificates if conditions of consent have not been complied with.)

Accordingly, in addition to any evidence that an applicant for a certificate provides in accordance with a condition of consent, a council or other certifier needs to confirm that the required special infrastructure contribution has been paid using the NSW Planning Portal or by making a direct enquiry of the Department of Planning and Environment. Enquiries can be made to [SIContributions@planning.nsw.gov.au](mailto:SIContributions@planning.nsw.gov.au).

**ORDER UNDER SECTION 57(2) OF THE *HERITAGE ACT 1977* TO GRANT  
EXEMPTIONS FROM APPROVAL FOR ACTIVITIES RELATED TO THE NSW  
GOVERNMENT BLUE PLAQUES PROGRAM**

Pursuant to subsection 57(2) of the *Heritage Act 1977*, I, the Hon. James Griffin MP, Minister for Environment and Heritage, on the recommendation of the Heritage Council of New South Wales, grant the exemptions from subsection 57(1) of the *Heritage Act 1977* that are described in Schedule A to this Order in respect of activities related to the NSW Government Blue Plaques Program. This Order takes effect upon publication in the New South Wales Government Gazette.

The Hon. James Griffin MP  
Minister for Environment and Heritage

Signed this 2<sup>nd</sup> day of June 2022.

**SCHEDULE “A”**

The engaging in or carrying out of the following specified activities do not require approval under subsection 57(1) of the *Heritage Act 1977* if they are undertaken in accordance with each of the Relevant Standards prescribed below:

Specified activities:

- a) The installation of Blue Plaques issued by the NSW Government Blue Plaques Program.
- b) The removal, repair, replacement, or relocation of Blue Plaques issued by the NSW Government Blue Plaques Program.

Relevant Standards:

- c) The specified activities must be done in accordance with *NSW Blue Plaque installation specifications (2022)*.
- d) The specified activities must only be carried out by a suitable person engaged by Heritage NSW.
- e) In relation to the significant fabric of a place/item (where significant fabric means all the physical material of the place/item including elements, fixtures, landscape features, contents, relics and objects which contribute to the place/item’s heritage significance), the specified activities:
  - i. must not remove any significant fabric,
  - ii. must minimise any impacts to significant fabric,
  - iii. must be carried out such that a Blue Plaque is able to be removed without damaging the significant fabric.
- f) If the specified activities involve any excavation of land (for example, for posts or bollards), the excavation:
  - i. must not disturb or remove any relics,

- ii. must not compromise the structural integrity of any heritage structure or significant landscape elements,
- iii. must not affect archaeological evidence, for example the archaeology of foundation trench deposits from the time of original construction.

Explanatory Notes:

1. The exemptions granted by this Order do not permit the removal of relics or Aboriginal objects.

If relics are discovered, work must cease in the affected area and the Heritage Council must be notified in writing in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, assessment and an excavation permit may be required prior to the recommencement of work in the affected area.

If any Aboriginal objects are discovered, excavation or disturbance is to cease, and Heritage NSW must be notified in accordance with section 89A of the *National Parks and Wildlife Act 1974*. More information is available at [www.environment.nsw.gov.au/licences/ACHregulation.htm](http://www.environment.nsw.gov.au/licences/ACHregulation.htm)

“Aboriginal object” has the same meaning as in the *National Parks and Wildlife Act 1974*.

2. The exemptions granted by this Order apply only to the engaging in or carrying out of activities related to the NSW Government Blue Plaques Program, as specified in paragraphs (a) and (b) of Schedule A of this Order.  
For any activities/works that do not fit within the specified activities, a person must consider whether the activities/works can be done under another exemption granted under section 57(2) of the *Heritage Act 1977* or if they require approval by way of an application under section 60 of that Act.
3. The exemptions granted by this Order are not authorisations, approvals or exemptions for the specified activities under any other legislation (including, but not limited to, the *Environmental Planning and Assessment Act 1979* and the *National Parks and Wildlife Act 1974*) or under local council requirements.
4. The exemptions granted by this Order do not constitute satisfaction of the relevant provisions of the National Construction Code. Further, the specified activities undertaken pursuant to the exemptions granted by this Order must not, if they relate to an existing building, cause the building to contravene the National Construction Code.
5. General guidance material to assist persons carrying out activities/works is available on the Heritage NSW website. Any specifications relating to the carrying out of activities/works related to the NSW Government Blue Plaques Program must be complied with in accordance with paragraph (c) of Schedule A of this Order.
6. In this Order, words have the same meaning as in the *Heritage Act 1977*, unless otherwise indicated. Where there is an inconsistency between this Order and the *Heritage Act 1977*, the Act prevails.
7. Note that authorised persons under the *Heritage Act 1977* carry out inspections for compliance. A person guilty of an offence against the *Heritage Act 1977* shall be liable to a penalty or imprisonment, or both under section 157 of that Act.

# Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont Peninsula Metro) Determination 2022

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, in pursuance of section 7.23 of the *Environmental Planning and Assessment Act 1979*, make the following Determination.

ANTHONY ROBERTS, MP  
Minister for Planning

Dated: 11 July 2022

## Part 1 Preliminary

### 1 Name of Determination

This Determination is the *Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont Peninsula Metro) Determination 2022*.

### 2 Commencement

This Determination takes effect on the date of its publication in the Gazette.

### 3 Land to which Determination applies

This Determination applies to the Pyrmont Peninsula Special Contributions Area.

### 4 Object of Determination

The object of this Determination is to require special infrastructure contributions to be made to the cost of the Sydney Metro Pyrmont Station and associated infrastructure in Pyrmont Peninsula in connection with the intensification of urban development in the area, as generally outlined in the Pyrmont Peninsula Place Strategy, published in December 2020 and available on the NSW Planning Portal.

## 5 Definitions

(1) In this Determination:

**commercial building** means a building, or part of a building, that is used or may be used for a purpose other than residential accommodation.

**commercial component** means SIC development for a purpose other than residential accommodation.

**commercial contribution rate** – see clause 12 (1) and clause 13.

**contribution rate** – see clauses 12 and 13.

**designated community purpose** – see clause 7 (2).

**developer** means the person having the benefit of a development consent for the time being.

**existing exempt building** – see clause 7 (3).

**infrastructure** has the same meaning as it has in Subdivision 4 of Division 7.1 of the Act.

**PPI** means the Producer Price Index (Road and Bridge Construction (NSW)) published by the Australian Bureau of Statistics.

**public housing** has the same meaning as in the *Housing Act 2001*.

**Pyrmont Peninsula Special Contributions Area** means the special contributions area of that name as described in Schedule 4 to the Act.

**residential building** means a building, or part of a building, that is used or may be used for the purpose of residential accommodation.

**residential component** means SIC development for the purpose of residential accommodation.

**residential contribution rate** – see clause 12 (2) and clause 13.

**SIC development** means development for which a special infrastructure contribution must be made under Part 2 of this Determination.

**social housing provider** means any of the following:

- (a) the New South Wales Land and Housing Corporation constituted by the *Housing Act 2001*,

- (b) a registered community housing provider,
- (c) the Aboriginal Housing Office constituted by the *Aboriginal Housing Act 1998*,
- (d) a registered Aboriginal housing organisation within the meaning of the *Aboriginal Housing Act 1998*,
- (e) the Secretary of the Department of Communities and Justice,
- (f) a provider of specialist disability accommodation under the *National Disability Insurance Scheme Act 2013* of the Commonwealth,
- (g) a local government authority that provides affordable housing,
- (h) a not-for-profit organisation that is a direct provider of rental housing to tenants.

**Standard Instrument** means the standard instrument for a principal local environmental plan set out at the end of the *Standard Instrument (Local Environmental Plans) Order 2006*.

**the Act** means the *Environmental Planning and Assessment Act 1979*.

**urban intensification site** means any of the following sites within the Pyrmont Peninsula Special Contributions Area:

- (a) a site identified as an urban intensification site on the Urban Intensification Sites Map,
- (b) a site included in Schedule 2 after this Determination takes effect by an amendment to this Determination made by the Minister.

**Urban Intensification Sites Map** means the map marked “Pyrmont Peninsula SCA Urban Intensification Sites Map” that is:

- (a) approved by the Minister, on the making of this Determination, for the purpose of identifying urban intensification sites, and
- (b) published on the NSW Planning Portal.

- (2) Words or expressions used in this Determination have the same meanings as they have in the Act, unless otherwise defined.

**Standard instrument terms**

- (3) The following words or expressions in this Determination have the same meanings as they have in the Standard Instrument:

- (a) boarding house,
- (b) co-living housing,
- (c) commercial premises,
- (d) dual occupancy (attached),
- (e) dual occupancy (detached),
- (f) dwelling house,
- (g) emergency services facility,
- (h) health services facility,
- (i) hostel,

- (j) independent living unit,
  - (k) passenger transport facility,
  - (l) place of public worship,
  - (m) public utility undertaking,
  - (n) recreation area,
  - (o) registered community housing provider,
  - (p) residential accommodation,
  - (q) school,
  - (r) secondary dwelling,
  - (s) seniors housing,
  - (t) shop top housing.
- (4) The word, ***dwelling***, has the same meaning in this Determination as it has in the Standard Instrument and, in the case of co-living housing, includes a private room with both a private kitchen and private bathroom facilities, but does not include a private room without a private kitchen or without private bathroom facilities.
- (5) The term, ***gross floor area of a building***, has the same meaning in this Determination as it has in the Standard Instrument. A reference to the gross floor area of part of a building is to be construed accordingly.

**Note.** As at the date this Determination was made, the term “gross floor area” was defined in the Standard Instrument as follows:

***gross floor area*** means 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.

**Producer Price Index (Road and Bridge Construction)**

- (6) If the Producer Price Index (Road and Bridge Construction (NSW)) ceases to be published or issued by the Australian Bureau of Statistics, a reference in this Determination to the

index is taken to be a reference instead to an index designated by the Minister for the purposes of this Determination.

- (7) The map set out in Schedule 1 shows the urban intensification sites within the Pymont Peninsula Special Contributions Area at the time this Determination is made. It is included for information only.

## **Part 2 Development for which SIC is required**

### **6 Development for which SIC must be made**

Subject to this Determination, a special infrastructure contribution must be made for development on land that is, at the time development consent for the development is granted, within an urban intensification site.

**Note.** A special infrastructure contribution may be imposed only as a condition of development consent. See the direction given by the Minister under section 7.24 of the *Environmental Planning and Assessment Act 1979* to the Council of the City of Sydney and other consent authorities to impose a condition to require a special infrastructure contribution in accordance with this Determination on a grant of consent given on or after the date on which this Determination takes effect.

### **7 Exemptions from SIC**

#### **Certain types of residential accommodation exempt**

- (1) A special infrastructure contribution is not required for development for the purpose of any of the following types of residential accommodation:
- (a) boarding house,
  - (b) group home,
  - (c) hostel,
  - (d) seniors housing other than a group of independent living units,
  - (e) secondary dwelling.

#### **Development for community purpose exempt**

- (2) A special infrastructure contribution is not required for development for the purpose of any of the following:
- (a) school,
  - (b) TAFE establishment,
  - (c) emergency services facility,
  - (d) health services facility owned or operated by a public authority,
  - (e) passenger transport facility,
  - (f) place of public worship,
  - (g) public utility undertaking,
  - (h) bus depot,
  - (i) recreation area,

- (j) public amenities or public services, for which development contributions have been imposed under section 7.11 or section 7.12 of the Act, or may be imposed in accordance with a contributions plan that is in force (when consent is granted for the development),
- (k) infrastructure for the purpose of which a contribution may be required to be made under this Determination or other applicable determination under section 7.23 of the Act,
- (l) public housing,
- (m) seniors housing, if it is to be carried out by or on behalf of a social housing provider,
- (n) affordable housing, if it is to be:
  - (i) carried out by or on behalf of a social housing provider, or
  - (ii) managed by a registered community housing provider as required by *State Environmental Planning Policy (Housing) 2021*, where the consent authority is satisfied that it will be so managed.

For the purposes of this Determination, a purpose of development specified in this subclause is a *designated community purpose*.

**Change of use may be exempt**

- (3) A special infrastructure contribution is required for a change of use of an existing commercial building only if the new use of the building permitted by the development consent is for the purpose of commercial premises (that is, business premises, office premises or retail premises) or residential accommodation. However:
  - (a) a change of use of a building from one type of commercial premises to another type does not require a special infrastructure contribution, and
  - (b) a change of use is not exempt, under this subclause, where the building's existing use is for development of a kind that is exempt from the requirement to make a special infrastructure contribution (such as a place of public worship or TAFE establishment).

In this Determination, a building described in paragraph (b) is referred to as an *existing exempt building*.

**Note.** Under the Standard Instrument, the term "commercial premises" means business premises, office premises, and retail premises. Each of those type of premises is also defined. The effect of the above subclause is that a change of use from, for example, business premises to retail premises does not of itself attract a special infrastructure contribution. However, if a building is currently being used for the purposes of an industry, for example, a change of use to commercial premises does attract a contribution.

- (4) Subclause (3) does not affect the requirement to make a special infrastructure contribution because of an alteration to, or enlargement or extension of, a building even though the alteration, enlargement or extension is in connection with a change of use.

**No SIC required if CDC issued**

- (5) A special infrastructure contribution is not required for development for which a complying development certificate is issued.

**Operation of exemptions**

- (6) An exemption from the requirement to make a special infrastructure contribution provided by a subclause of this clause is not limited by the terms of an exemption provided by any other subclause of this clause.
- (7) An exemption under this clause from a requirement to make a special infrastructure contribution for development for the purpose of residential accommodation permitted by the relevant development consent does not affect a requirement to make a contribution in respect of other development of another type permitted by the consent, and vice versa.

**8 Special exemptions for residential development**

**Exempt for 12 months**

- (1) A special infrastructure contribution is not required for development for the purpose of residential accommodation where the development consent is granted within 12 months of this Determination taking effect.

**Re-builds exempt**

- (2) A special infrastructure contribution is not required for development for the purpose of residential accommodation if the carrying out of the development under the development consent (the *relevant development consent*) will not result in an increase in the number of dwellings on the land concerned (whether contained in new buildings or existing buildings). Accordingly, if a single dwelling house is to be demolished and replaced by another single dwelling house, a special infrastructure contribution is not required.
- (3) For the purpose of determining whether development is exempt under subclause (2), only the number of dwellings that may be demolished under the relevant development consent is to be taken into account. That is, dwellings that have been, or may be, demolished under another development consent may not be taken into account.
- (4) The number of dwellings that may result from carrying out the development under the relevant development consent is to be calculated in accordance with clause 15 other than clause 15 (6), (7) and (8), as if the development were a residential component of a SIC development.
- (5) The whole of the development that may be carried out under the relevant development consent is to be taken into account for the purpose of determining whether the development is exempt under subclause (2). In particular:
- (a) any part of the development that may be carried out under the consent outside the Pymont Peninsula Special Contributions Area is to be taken into account, and
  - (b) any demolition of a boarding house, hostel or group home under the consent is to be treated as the demolition of one dwelling.

- (6) This clause does not affect the requirement for a contribution for any commercial component of the development.

## **9 Development that is SIC development in part only**

A special infrastructure contribution is required for SIC development even if the development consent for the development:

- (a) also authorises development on land outside the Pymont Peninsula Special Contributions Area or on land that is outside an urban intensification site, or
- (b) also authorises development that is not SIC development.

**Note.** A special infrastructure contribution is required to be made for development only to the extent that the development is within both the special contributions area and is also SIC development. Generally, too, development that is outside an urban intensification area is exempt from the requirement. See clauses 14 and 15 about the calculation of the gross floor area or number of dwellings for SIC development where it is part of a larger development that extends beyond the boundaries of the Pymont Peninsula Special Contributions Area or an urban intensification site.

## **10 Nature of contribution**

The special infrastructure contribution for SIC development is to be made as a monetary contribution.

## **Part 3 Calculation of the amount of the contribution for SIC development**

### **11 Amount of monetary contribution**

The amount of the special infrastructure contribution for SIC development is the amount calculated as follows:

$$\$C_P = (GFA \times \$GFA_R) + (D_N \times \$D_R)$$

where:

**\$C<sub>P</sub>** is the amount of the special infrastructure contribution.

**GFA** is the gross floor area, in square metres, of the commercial component (if any) of the SIC development, determined in accordance with clause 14.

**\$GFA<sub>R</sub>** is the amount in dollars of the commercial contribution rate, applicable at the date of payment, for the SIC development.

**D<sub>N</sub>** is the number of dwellings resulting from the residential component (if any) of the SIC development, determined in accordance with clause 15.

**\$DR** is the amount in dollars of the residential contribution rate, applicable at the date of payment, for the SIC development.

## **12 Contribution rates**

- (1) The commercial contribution rate that applies, at any time before 1 July 2023, in the calculation of the special infrastructure contribution for SIC development is \$200 per square metre of gross floor area.
- (2) The residential contribution rate that applies, at any time before 1 July 2023, in the calculation of the special infrastructure contribution for SIC development is \$15,000 per dwelling.
- (3) Each of the amounts of \$200 and \$15,000 is a **contribution amount** for the purposes of this clause and clause 13.
- (4) The contribution rates that apply at any time during the 12 month period commencing 1 July 2023, and during each subsequent 12 month period, are to be determined by adjusting each contribution amount in accordance with clause 13 (an **adjusted contribution amount**). Accordingly, the commercial contribution rate for any such period is the adjusted contribution amount per square metre of gross floor area and the residential contribution rate for the period is the adjusted contribution amount per dwelling.

## **13 Annual adjustment of contribution rates**

- (1) On 1 July 2023, and on 1 July in each subsequent year, each contribution amount is to be adjusted by multiplying it by the following fraction:

$$\frac{\textit{latest PPI number}}{\textit{base PPI number}}$$

where:

**latest PPI number** is the PPI number for the March quarter in the year in which the adjustment is made, and

**base PPI number** is the PPI number for the March quarter in 2022.

(The March quarter is the quarter commencing on and including 1 January and ending on and including 31 March in the same year.)

- (2) However, if the adjustment of the contribution amount under this clause results in a contribution amount that is less than that for the preceding 12 month period, the contribution amount for that preceding 12 month period continues to apply.

- (3) If the adjustment of a contribution amount results in a number that is not a whole number multiple of one cent, the amount is to be rounded to the nearest whole number multiple of one cent (with half a cent rounded up).

#### **14 Calculation of GFA of commercial buildings**

- (1) For the purpose of clause 11, the gross floor area of the commercial component of SIC development is the sum of the gross floor areas of each commercial building to which the development consent relates determined in accordance with this clause.
- (2) The gross floor area of a commercial building to which the development consent relates is:
- (a) if the development consent permits the erection of the building – the gross floor area of the building, and
  - (b) if the development consent permits the alteration to, or enlargement or extension of, the building – the additional gross floor area that will result from the alteration, enlargement or extension, and
  - (c) if the development consent permits the change of use of the building (being an existing commercial building, other than one used for commercial premises) to use for commercial premises – the gross floor area of the building that will be converted to the new use, and
  - (d) if the development consent permits the change of use of the building (being a residential building or an existing exempt building) to use as a commercial building – the gross floor area of the building that will be converted to the new use.

**Note.** See clause 7 (3) for exemptions from the SIC for a change of use. However, even where an exemption applies, a SIC involving a change of use may still be payable if alterations to the building will result in additional gross floor area, but, in that case, the SIC will be calculated only on the basis of that additional gross floor area, and not the whole of the gross floor area affected by the change of use.

#### **Common areas in mixed use buildings**

- (3) If the building concerned is, or may be, used for residential accommodation as well as being in part a commercial building, the gross floor area of any common area is to be included in the gross floor area of the commercial building, if it is otherwise gross floor area as described in subclause (2). A common area, for this purpose, is an area such as a foyer that may be used for the purpose, or the benefit, of both the residential accommodation and one or more other uses within the building.

**Note.** Examples of a building that is both a commercial building and a residential building is one that contains shop top housing, or hotel accommodation as well as residential flats.

#### **Exclusions from GFA**

- (4) The gross floor area of a commercial building does not include the gross floor area of any part of the building that is not within the Pymont Peninsula Special Contributions Area. However, if the precise determination of the gross floor area of the commercial building within the special contributions area is not possible or practicable, the Planning Secretary may make a reasonable estimate of the gross floor area.

- (5) If part of a commercial building is on land outside an urban intensification site, but still within the Pyrmont Peninsula Special Contributions Area, the gross floor area of that part of the building is to be included in the calculation of the special infrastructure contribution.
- (6) To avoid doubt, the gross floor area of a commercial building does not include the gross floor area of a part of the building that may be used for a designated community purpose or subject to a change of use that is exempt under clause 7 (3).
- (7) If the precise determination of the gross floor area of a commercial building under this clause is not possible or practicable because the building concerned is also used, or may be used, for a designated community purpose or contains excluded gross floor area, a reasonable estimate of the gross floor area of the commercial building may be made for the purpose of calculating the special infrastructure contribution.

## **15 Calculation of number of dwellings**

- (1) For the purpose of clause 11, the number of dwellings resulting from the residential component of a SIC development is the sum of the following:
  - (a) the number of dwellings that the consent authorises to be erected,
  - (b) the number of dwellings that will result from any alteration to, or enlargement or extension of, an existing building that the consent authorises,
  - (c) the number of dwellings that will result from a change of use of any existing building that the consent authorises, including from one type of residential accommodation to another.

### **Conversion from one type of residential accommodation to another**

- (2) The number of dwellings that will result from a conversion of a building from one type of residential accommodation to another is reduced by the number of dwellings in the building at the time development consent is granted. For example, if a dwelling house is to be converted to a residential flat building comprising 4 dwellings, the number of dwellings is 3, and if it is to be converted to a dual occupancy (attached), the number of dwellings is one, for the purpose of calculating the special infrastructure contribution.
- (3) The number of dwellings that will result from a conversion of a boarding house, group home or hostel is reduced by one.

### **Existing dwellings not to be counted**

- (4) The number of dwellings on the land to which the development consent relates that are proposed to be retained is not to be included in the number of dwellings for the purpose of calculating the special infrastructure contribution even if, as a result of the erection of new dwellings under the consent, the type of residential accommodation on the land will change. For example, if the consent permits a new dwelling to be erected on the land on which there is already a dwelling house so as to create a dual occupancy (detached), the number of dwellings is only one.

**Co-living housing**

- (5) If the residential component of SIC development is or includes co-living housing that:
- (a) consists of private rooms without a private kitchen or without private bathroom facilities, the number of dwellings is to be treated as one, and
  - (b) includes private rooms of that kind, but also private rooms with both private kitchens and private bathroom facilities (being dwellings), the number of dwellings is increased by one.

**No reduction because of demolition**

- (6) To avoid doubt, the number of dwellings resulting from the residential component of SIC development is not reduced by the number of dwellings that have been, or may be, demolished under the development consent or another consent.

**No public housing dwellings etc to be included**

- (7) To avoid doubt, the number of dwellings resulting from the residential component of SIC development does not include any dwellings that are public housing, or affordable housing or seniors housing (as referred to in clause 7 (2)) or are a type of residential accommodation exempt from the requirement to make a special infrastructure contribution under clause 7 (1).

**Dwellings outside SCA or urban intensification site**

- (8) The number of dwellings in any part of a residential building that is not within the Pyrmont Peninsula Special Contributions Area is not to be included in the number of dwellings for the purpose of calculating the special infrastructure contribution for the SIC development. Further, if a dwelling in a residential building straddles the boundary of the special contributions area, it is not to be included in the number of dwellings.
- (9) If a residential building straddles the boundary of an urban intensification site, the number of dwellings in the residential building is the total number of dwellings within the Pyrmont Peninsula Special Contributions Area, even though one or more dwellings will be located outside the urban intensification site.

**16 Gross floor area to be verified by suitably qualified person**

- (1) To assist the Planning Secretary in determining the gross floor area of the commercial component of SIC development under clause 14, the developer is to provide the Planning Secretary with a calculation of the gross floor area and relevant building plans or other documentation prepared or verified by a suitably qualified person (such as an engineer or architect) that show the floor areas that were included in the calculation of the gross floor area.
- (2) If the development consent for SIC development is modified after the Planning Secretary has last determined the gross floor area of the commercial component of the development, the developer is to provide the Planning Secretary with a revised calculation and up-to-date plans and documentation.

## 17 Final decision by Secretary of GFA or number of dwellings

- (1) A developer is entitled under this Determination to an exclusion of floor area from the calculation of the gross floor area of a commercial building or exclusion from, or reduction in, the number of dwellings in a residential building only if the developer establishes the matters relevant to the exclusion or reduction to the Planning Secretary's satisfaction.
- (2) The Planning Secretary may make any decision required to be made for the purpose of calculating the special infrastructure contribution for SIC development in accordance with this Determination and, for that purpose, may have regard to any information available at the time, including information in an application for a construction certificate or modification of a construction certificate, or for a strata certificate or occupation certificate, as well as the documentation described in clause 16.

## Part 4 Time by which SIC must be paid

### 18 When a monetary contribution for SIC development must be paid

- (1) A special infrastructure contribution for SIC development must be paid before the first construction certificate is issued for building work in relation to any commercial building or residential building the subject of the relevant development consent.
- (2) However, if the development consent for the SIC development permits the erection of more than one such building, and a construction certificate is sought for only one or some of those buildings (a *staged development*), the monetary contribution may be paid progressively, with an amount being paid before the issue of each construction certificate.
- (3) The amount that must be paid before the issue of each construction certificate is to be calculated in accordance with Part 3, but on the basis that:
  - (a) the gross floor area is determined only for each commercial building for which the construction certificate is sought, and
  - (b) the number of dwellings is the number of dwellings in each residential building for which the construction certificate is sought.
- (4) The total of the amounts paid for a staged development under this clause must not be less than the monetary contribution for the whole of the SIC development as calculated at the time that the first construction certificate is issued.

**Note.** The total of the amounts paid progressively for a staged development may be more than the contribution if paid in full before the issue of the first construction certificate, because of the indexation of the contribution rates applicable when each instalment is calculated for a stage of development.

- (5) If no construction certificate is required in relation to SIC development, the special infrastructure contribution must be paid before any work is physically commenced on the land concerned under the relevant development consent.

## Part 5 Miscellaneous provisions

### 19 Additional contributions payable if increase under modification of consent

- (1) A further monetary contribution for SIC development is required after a special infrastructure contribution for the development (the *initial special infrastructure contribution*) has already been paid if (and only if) the development consent for the development is modified so as to result in either or both of the following:
  - (a) an increase in the gross floor area of any commercial building to which the consent relates,
  - (b) an increase in the number of dwellings in any residential building to which the consent relates.
- (2) The further monetary contribution is to be calculated in accordance with clause 11, but on the following bases:
  - (a) the gross floor area (that is, **GFA** in the formula set in clause 11) for any commercial component is the difference between the gross floor area used in calculating the initial special infrastructure contribution and the gross floor area as re-determined in accordance with Part 3 for the commercial component of the SIC development as modified, and
  - (b) the number of dwellings (that is, **DN** in the formula) for any residential component is the difference between the following numbers:
    - (i) the number used in calculating the initial special infrastructure contribution for the development,
    - (ii) the number of dwellings as re-determined in accordance with Part 3 for the residential component of the SIC development as modified.
- (3) A further monetary contribution must be paid following the modification of the development consent before the earlier of the following:
  - (a) the issue of the next construction certificate (or an amended construction certificate) for the building work in relation to any commercial building or residential building the subject of the development consent as modified,
  - (b) the issue of a strata certificate for any strata plan relating to any such commercial building or residential building,
  - (c) the issue of an occupation certificate relating to any such commercial building or residential building.

If no certificate is required, the further monetary contribution must be paid before any further work is physically commenced on the land concerned under the relevant development consent.

- (4) A further monetary contribution may be required more than once under this clause as a result of successive modifications of the development consent. Where a further monetary contribution has already been paid, subclause (2) applies as if the references to the gross floor area, or number of dwellings, used in calculating the initial special infrastructure contribution were references to the area or number last used in re-determining the contribution payable following a modification.
- (5) In this clause, *strata plan* means a strata plan within the meaning of the *Strata Schemes Development Act 2015* and includes a strata plan of subdivision within the meaning of that Act.

## **20 Reduction in amount of SIC payable for 2 years**

If a special infrastructure contribution is paid:

- (a) at any time before 1 July 2023 – the amount that would otherwise be payable is reduced by one half, and
- (b) at any time between 1 July 2023 and 30 June 2024 – the amount that would otherwise be payable is reduced by one quarter.

## **21 Matters for which special infrastructure contribution is made**

- (1) For the purpose of section 7.23 (3A) of the Act, 1.5% of a special infrastructure contribution required to be made by this Determination is for matters specified in section 7.22 (1) (d) of the Act.

**Note.** The matters specified in section 7.22 (1) (d) of the *Environmental Planning and Assessment Act 1979* are the carrying out of any research or investigation, preparing any report, study or instrument, and doing any other matter or thing in connection with the exercise of any statutory function under the Act, by the Minister, the Planning Ministerial Corporation, the Planning Secretary or the Department of Planning and Environment.

- (2) For the purpose of section 7.32 (6) of the Act, affordable housing is not a class of infrastructure for which special infrastructure contributions are required to be made by this Determination.

## **22 Reasons for the level and nature of special infrastructure contributions**

For the purpose of section 7.23 (5) of the Act, the reasons for the level and nature of special infrastructure contributions required to be made by this Determination are as follows:

- (a) to assist in recouping the cost of the provision by or on behalf of Sydney Metro or TfNSW of the Sydney Metro Pyrmont Station and associated infrastructure,
- (b) to provide that future development in the special contributions area bears a share of the cost of the provision of the Sydney Metro Pyrmont Station and associated infrastructure, being a share of approximately \$280 million of the estimated cost,

- (c) to provide for the adjustment of special infrastructure contributions to reflect changes in economic conditions between the time of imposing the contribution and the time at which the contribution is paid,
  - (d) to ensure that special infrastructure contributions reflect a reasonable apportionment between the demand for the Sydney Metro in Pyrmont Peninsula generated by existing development and the demand that is likely to be generated by new development for which contributions must be paid,
  - (e) to ensure that the level of the special infrastructure contribution does not adversely affect housing supply or the feasibility of new development.
-



**SCHEDULE 2 – ADDITIONAL URBAN INTENSIFICATION SITES**

(When this Determination was made this Schedule was blank)

**Ku-ring-gai Council** NSW Heritage Act 1977. Interim Heritage Order No 14

Notice is hereby given, under Section 25 of the *Heritage Act 1977*, that Ku-ring-gai Council does by this order.

- i. make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule “A”; and
- ii. declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule “B”.

This Interim Heritage Order will lapse six months from the date that it is made unless the Local Council has passed a resolution before that date; and

- (i) in the case of an item which, in the council’s opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
- (ii) In the case of an item which, in the Council’s opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register.

John McKee General Manager Ku-ring-gai Council  
Sydney 27 July 2022

**Schedule  
“A”**

The property known as 10 Park Crescent, Pymble on land described in Schedule B.

**Schedule  
“B”**

The pieces or parcels of land known as Lot 26 DP 7427 in Parish of Gordon, County of Cumberland.