ITEM 6★
COMMUNITY BENEFIT BONUS ELEMENTS POLICY REVIEW - PHASE 1
PD98/1132/04/40

1 BASIS FOR CONFIDENTIALITY

1.1 It is recommended that this report be considered in Closed Session pursuant to section 275 (1) of the Local Government Regulation 2012 for the reason that the matter involves

(h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

1.2 It is recommended that the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the Local Government Act 2009.

2 EXECUTIVE SUMMARY

City Plan Policy – Community benefit bonus elements (the Policy) is not delivering the outcomes intended as originally drafted. Following on from previous discussions with MTAC where concerns regarding the Policy have been raised, the limited application of the Policy since its introduction has highlighted the need for a review. A review of the Policy has been undertaken to determine its overall suitability, need and effectiveness, and to provide recommendations and options for the future of the Policy.

This report presents the outcomes of Phase 1 of the review, and seeks endorsement to proceed to Phase 2 of the project, to prepare revised City Plan provisions in accordance with the proposed preferred option.

Phase 1 has identified that the current Policy is likely to remain unused while it is optional and poorly aligned with City Plan, and is not expected to deliver innovative and world class design across the City. Several options for the future of the Policy have been provided for City Planning Committee to consider. The strengths and weaknesses of each of these options have been considered, resulting in an Officer recommendation as follows:

- Short term actions (to be investigated as part of Phase 2):
  - remove the existing Policy from City Plan;
  - incorporate additional design elements into the relevant City Plan codes; and
  - include a level of assessment trigger in City Plan for development that exceeds the density on the Residential density overlay map.

- Longer term actions:
  - prepare a Design and Urban Context Policy to be incorporated into City Plan; and
  - investigate urban elements mapping identifying key desired features such as plaza and link locations, and how it could be implemented to guide outcomes for higher density development.

Removing the current Policy and codifying desired design elements will ensure the outcomes anticipated in the Policy can be delivered through stronger City Plan requirements. A level of assessment trigger will give Council the ability to review design and community benefit for proposals that exceed residential density with regard to the entire City Plan. Supporting these outcomes, a Design and Urban Context Policy and urban elements mapping will provide clear policy guidance for developers.
The short term actions will be further investigated as part of Phase 2 of this project. It is anticipated amendments suggested as part of Phase 2 of the project will form part of Major update 2 to City Plan.

Longer term actions will also be investigated and any amendments suggested will form part of a future update to City Plan.

3 PURPOSE OF REPORT

The purpose of this report is to present to Council the key findings of the Community Benefit Bonus Elements Policy Review - Phase 1, and seek endorsement to proceed to Phase 2 of the project in accordance with the proposed preferred option.

4 PREVIOUS RESOLUTIONS

Council resolved on 1 September 2015 (G15.0901.023) to include the Community Benefit Bonus Elements Policy Review within the scope for Major Update 1 of City Plan.

An updated scope list was resolved at the Council meeting of 4 March 2016 (G16.0304.010), where the review of the Policy was deferred to allow for more stakeholder input in light of the Ministerial condition altering the Policy that was publicly advertised as part of City Plan version 1.

Council resolved on 15 November 2016 (G16.1115.016) that the Introductory Paper – Community Benefit Bonus Elements Policy Review be noted.

5 DISCUSSION

5.1 Current state of play

The Policy provides guidance on what constitutes a community benefit as envisaged by the housing form, scale and intensity overall outcomes in the Medium density residential, High density residential, Centre, Neighbourhood centre, Innovation and Mixed use zones.

The Policy identifies the residential density bonus that would be contemplated in return for community benefits provided by the development, including:

- ecologically sustainable development/green buildings;
- community facilities and improvements – public pedestrian accessibility enhancements, public parks or streetscape works, public toilets and parents rooms, public art or artistic exterior lighting, monetary contributions to centre improvement programs; and
- site amalgamation.

The Policy identifies that any community benefits proposed, need to be demonstrably in excess of those that would normally be expected under the relevant provisions of City Plan or building regulations.
5.2 Legislative application

In accordance with s114 of the Sustainable Planning Act 2009 (SPA), a planning scheme policy may only provide a supporting role, such as providing guidelines or advice about satisfying assessment criteria in City Plan. There is a tension between implementing a bonus based approach, as provided in the current Policy, within a performance based system. There are limited other Queensland examples of bonus based systems being applied in a similar way.

5.3 Ministerial correspondence

There have been a number of key matters in the development of the Policy. Of note is the following Ministerial correspondence:

- Ministerial Direction of 19 February 2009, raised concerns with the operational transparency of the 2003 Planning Scheme - Policy 18; and
- Ministerial Letter of 16 November 2015 required Council to amend the draft City Plan Policy and relevant draft zone codes to be objective and transparent and ensure the application of the Policy is optional.

The Policy was amended to be considered optional in accordance with the Ministerial condition of 16 November 2015.

5.4 Application of the Community Benefit Bonus Elements Policy

A review of development applications lodged since City Plan commenced in February 2016, has found that only one development application exceeding the planned residential density has applied the Policy. Applicants have instead opted out of applying the Policy, and have relied upon demonstrating compliance with the other Overall outcomes relating to orderly and economically efficient settlement pattern, housing needs, design and amenity, and environment. Developments have been able to meet these tests with no conflict with City Plan created.

5.5 Phase 1 of the project

A consultant was commissioned to determine the Policy’s overall suitability, need and effectiveness, and provide options for the future of the Policy. This involved:

- analysis to understand the relationship between the Policy and City Plan;
- policy testing (architectural assessment, relative impact assessment, urban design and planning assessment) to understand the application of the Policy;
- benchmarking of other bonus policies in Australia and internationally;
- review of development applications to understand extent and success of Policy use under previous and current policy regimes;
- targeted stakeholder consultation to obtain views and insights of the industry;
- determination of advantages and disadvantages of the Policy and its application under City Plan; and
5.6 Key findings

The work undertaken has found there is limited stakeholder support for the current Policy and its application pursuant to the current City Plan framework. The fact that the Policy is not utilised makes it difficult to identify advantages in its current operation, and highlights the need for a review of the Policy and its application to ensure the delivery of community benefit and world class design.

Disadvantages of the Policy and current framework include the following:

- The Policy is unused, and will continue to be unused while it remains optional; therefore, there is no realistic basis to obtaining any of the benefit elements identified within the Policy.
- The Policy is poorly aligned to the broader strategic expectations of City Plan, and is poorly aligned to City Plan generally.
- The benefit elements within the Policy do not necessarily contribute meaningfully to high quality design and public realm outcomes for the City.
- The Policy does not necessarily have any impact on architectural design outcomes. A building could comply with the Policy and deliver a poor architectural design; conversely, a building could ignore the Policy and still deliver architectural excellence.
- The utilisation of bonus elements pursuant to the Policy may result in a negative impact on the viability of a development due to the high cost of delivering the elements, compared to the modest value of the increased residential density - there is a misalignment between the value earned and the cost of each bonus element.
- Even if the Policy was consistently applied, broad scale take up would likely result in duplication of bonus elements such as pedestrian links and plazas in unnecessary locations.

The SPA provides for ‘sufficient grounds’ to justify a decision, despite any conflict with a relevant planning instrument. Grounds are routinely used to justify development outcomes that seek something more than the planning scheme nominates in its provisions. As such, there is a potential for a broader range of grounds to be used to justify alternative densities, if necessary, rather than to use the Policy.

The SPA will be replaced by the Planning Act 2016 (PA) in July. Under the PA, the ability to justify a decision through sufficient grounds is no longer available. However, a development proposal that does not comply with elements of City Plan may still be approved, with a statement of reasons to outline why approval has been granted. The implications of this, and how this could be utilised to provide community benefit and design excellence, will be further investigated as part of Phase 2 of the project.

5.7 Options, recommendations and opportunities

Having regard to the advantages, disadvantages and key findings of the project, the following options have been suggested. Based on the project work completed, the consultant
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The recommended option is a combination of Option 3 and Option 5, supported by a number of longer term and desired actions.

<table>
<thead>
<tr>
<th>Options</th>
<th>Comment</th>
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</thead>
<tbody>
<tr>
<td><strong>Option 1</strong></td>
<td>Retain the existing Policy and associated City Plan structure. This option is not desirable, given the limited future use of the Policy and therefore limited achievement of higher quality urban design outcomes anticipated in the Policy.</td>
</tr>
<tr>
<td><strong>Option 2</strong></td>
<td>Prepare an alternate Policy with different bonus elements together with restructuring of City Plan. A revised Policy could include improved elements in line with desirable community outcomes. However, the use of a bonus based approach is still questionable under the Queensland planning framework (an issue previously raised by the State Government), and should the revised Policy remain optional, its application may remain limited. A revised Policy can include only objective and measurable elements limiting its scope, and may not result in innovative and higher quality design.</td>
</tr>
<tr>
<td><strong>Option 3</strong></td>
<td>Include additional design elements within City Plan codes. This option could deliver high quality urban design outcomes for all developments, not just where density is exceeded, and will ensure the outcomes anticipated in the Policy are delivered through stronger City Plan requirements. This approach can include both measurable and subjective elements to encourage innovation and high quality design, and better utilises the Queensland planning framework. This option forms part of the ‘preferred option’.</td>
</tr>
<tr>
<td><strong>Option 4</strong></td>
<td>Tie bonus elements to level of assessment. This option incentivises the use of bonus elements and could provide a basis for enforcing delivery. It utilises the Queensland planning framework; however may result in more impact assessment applications. It cannot include subjective elements and does not necessarily promote innovative design.</td>
</tr>
<tr>
<td><strong>Option 5</strong></td>
<td>Include a “Design and Urban Context Policy” to the planning approach. This option has potential for innovation and enforcement. Important baseline elements could be identified through the Policy and City Plan provisions, resulting in better alignment between zone compliance and strategic outcomes. The inclusion of links, plazas, etc. would still occur, but within a framework of contextual analysis rather than simply for the purpose of achieving uplift. This option forms part of the ‘preferred option’.</td>
</tr>
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</table>
Other recommendations suggested to complement the above options include:

1. Urban elements mapping in key precincts to identify key desired features such as plaza and link locations.
2. Review of underlying density parameters to better align with the strategic expectations of City Plan.
3. Require development exceeding a particular threshold to be subject to a competitive design process.
4. Achieve high quality design outcomes through the use of incentives such as infrastructure charges, application fees, and expedited timeframes.

Urban elements mapping forms part of the Officer recommendation below. The existing density provisions, together with the existing height provisions, are proposed to be calibrated to align with the zone purpose for inclusion as part of the Major update 2 to City Plan. The competitive design process and incentives suggestions do not require an update to City Plan, and will be investigated independently of this project.

5.8 Officer recommendation

City Planning, City Development and Office of the City Architect officers have reviewed the recommendations, and support the preferred option, with the addition of including a level of assessment trigger for development that exceeds the prescribed density.

Officers consider that including a level of assessment trigger for development that exceeds density will enable thorough assessment against the entire City Plan. With strengthened drafting and codified design outcomes included as part of the proposed preferred option, development that proposes increased density will be subject to a higher test and must demonstrate compliance with the strategic aims of City Plan. This will provide Council with a stronger basis for enforcing the delivery of community benefit and design excellence.

Density must be correctly calibrated in the City Plan; otherwise including a level of assessment trigger may result in a higher number of impact assessable applications. This work to calibrate density is currently underway, and is critical to the imposition of this recommendation.

The Officer recommendation is as follows:

<table>
<thead>
<tr>
<th>Action</th>
<th>Justification</th>
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<tbody>
<tr>
<td>Remove the existing Policy from City Plan</td>
<td>The current Policy is not being used, and therefore is not resulting in high quality design outcomes and community benefits. The inclusion of the following actions will mean the Policy is no longer required.</td>
</tr>
<tr>
<td>Incorporate additional design elements into the relevant City Plan Codes</td>
<td>Codifying the desired design elements will ensure that the outcomes anticipated in the Policy are delivered through stronger City Plan requirements. Presently, as the Policy is not being applied, design outcomes are difficult to enforce under City Plan. Strengthened City</td>
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<tr>
<th>Action</th>
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<tbody>
<tr>
<td>Plan requirements will apply to all development and help achieve the intent of the Policy as originally drafted.</td>
<td></td>
</tr>
<tr>
<td>Include a level of assessment trigger in City Plan for development that exceeds density on the Residential density overlay map</td>
<td>A level of assessment trigger will enable thorough development assessment and give Council the ability to review design and community benefit with regard to the entire City Plan, and will allow for community input. A calibration of height, zoning and density currently underway will ensure this level of assessment trigger is a reasonable requirement on development.</td>
</tr>
<tr>
<td>Long term</td>
<td></td>
</tr>
<tr>
<td>Prepare a Design and Urban Context Policy to be incorporated into City Plan</td>
<td>A Design and Urban Context Policy will provide clear policy guidance for developers. Officers also note a similar recommendation to develop a Design and Urban Context Policy has independently been recommended in other investigations into building height.</td>
</tr>
<tr>
<td>Investigate urban elements mapping identifying key desired features such as plaza and link locations, and how it could be implemented to guide outcomes for higher density development.</td>
<td>There is currently an absence of overarching public realm and urban design guidance in City Plan. This has the potential to result in poor legibility, duplication and/or lost opportunities for public realm and urban design elements, such as plazas, pedestrian links, etc. Urban elements mapping could assist to inform positive, coherent public realm and urban design outcomes.</td>
</tr>
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</table>

The short term actions will be further investigated as part of Phase 2 of this project. It is anticipated amendments suggested as part of Phase 2 of the project will form part of Major update 2 to City Plan.

Longer term actions will also be investigated and any amendments suggested will form part of a future update to City Plan.

6 **ALIGNMENT TO THE CORPORATE PLAN, CORPORATE STRATEGIES AND OPERATIONAL PLAN**

The City Plan is identified as a key deliverable in ensuring the themes of the Corporate Plan are achieved. Accordingly, all the themes (the best place to live and visit, prosperity built on a strong diverse economy and people contribute to a strong community spirit) of the Corporate Plan are applicable. A robust City Plan is essential to achieve the desired outcomes detailed in the Corporate Plan.

The City Plan is an initiative in the Operational Plan.

7 **GOLD COAST 2018 COMMONWEALTH GAMES™ IMPACT**

Not applicable.

*UNAUTHORISED RELEASE OF CONFIDENTIAL REPORTS OR INFORMATION may be an offence under the Local Government Act 2009 and other legislation and could result in disqualification from office and a penalty of up to 100 units.*
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8 FUNDING AND RESOURCING REQUIREMENTS

Not applicable.

9 RISK MANAGEMENT

This activity supports the mitigation of Planning and Environment Directorate Risk number CO000510:

‘City Plan delivers inadequate and/or ineffective strategic/development policy (e.g. poor planning, built form, growth, social and environmental outcomes - including flood impacts).’

10 STATUTORY MATTERS

The recommendations for future City Plan updates presently have no statutory effect in assessment of development applications. A work program will be developed to deliver the policy positions recommended by this report.

Should Council seek to update City Plan, section 117(1) of the Sustainable Planning Act 2009 requires an update to a planning scheme to follow the process set out in Statutory guideline 01/16, Making and amending local planning instruments, April 2016 (MALPI).

Recommended updates to City Plan would constitute a ‘major amendment’.

11 COUNCIL POLICIES

Not applicable.

12 DELEGATIONS

Not applicable.

13 COORDINATION & CONSULTATION

The following people were consulted in relation to the progress of the Community Benefit Bonus Elements Policy Review through internal working group meetings and requests for comments/feedback on the draft report.

<table>
<thead>
<tr>
<th>Title of the Stakeholder Consulted</th>
<th>Directorate or Organisation</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manager City Planning</td>
<td>Planning and Environment</td>
<td>Consulted &amp; agree with officers recommendation</td>
</tr>
<tr>
<td>Manager City Development</td>
<td>Planning and Environment</td>
<td>Consulted &amp; agree with officers recommendation</td>
</tr>
<tr>
<td>Executive Coordinator City and Regional Planning</td>
<td>Planning and Environment</td>
<td>Consulted &amp; agree with officers recommendation</td>
</tr>
<tr>
<td>Executive Coordinator Major</td>
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14 STAKEHOLDER IMPACTS

Any policy improvements recommended as part of Phase 2 of this project may form part of a future City Plan major update package.

14.1 Internal stakeholders

Internal stakeholders have been and will continue to be consulted as the update progresses through the statutory process.

14.2 External / community stakeholders

Under the statutory process, City Plan Major update 2 will be required to undergo a public consultation period (with all submissions considered) prior to its adoption.

15 TIMING

Any policy improvements recommended as part of Phase 2 of this project would form part of a City Plan update package.

16 CONCLUSION

Phase 1 of the review of the Community Benefit Bonus Elements Policy has been completed, with several options provided for consideration. Given that the current Policy is optional and is not being applied, the Officer recommendation is:

- Short term actions (to be investigated as part of Phase 2):
  - remove the existing Policy from City Plan;
  - incorporate additional design elements into the relevant City Plan codes; and
  - include a level of assessment trigger in City Plan for development that exceeds the density on the Residential density overlay map.

- Longer term actions:
  - prepare a Design and Urban Context Policy to be incorporated into City Plan; and
  - investigate urban elements mapping identifying key desired features such as plaza and link locations, and how it could be implemented to guide outcomes for higher density development.
It is recommended that Phase 2 of the project continue to develop the short term actions, which is anticipated to be included as part of Major update 2 to City Plan. Longer term actions will also be investigated and any amendments suggested may form part of a future update to City Plan.

17 RECOMMENDATION

It is recommended that Council resolves as follows:

1 That the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the Local Government Act 2009.

2 That the following option be endorsed with City Plan changes to be investigated as part of Phase 2 of the project:
   a remove the existing Policy from City Plan;
   b incorporate additional design elements into the relevant City Plan Codes;
   and
   c include a level of assessment trigger in City Plan for development that exceeds density on the Residential density overlay map.

3 That a Design and Urban Context Policy be prepared and presented to Council at a future meeting.

4 That urban elements mapping be investigated and presented to Council at a future meeting to determine how it could be implemented to guide outcomes for higher density development.

5 That Phase 2 of the project commence and be presented to Council at a future meeting as part of Major update 2.