

Environmental Planning and Assessment (Special Infrastructure Contribution – Pymont 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.



Minister for Planning

Dated: 11/8/22

1 Name of Direction

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

A special infrastructure contribution must be paid in accordance with the Environmental Planning and Assessment (Special Infrastructure Contribution – Pyrmont 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.

- (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 Pyrmont 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 – Pyrmont Peninsula Metro) Determination 2022 requires special infrastructure contributions to be paid for development within the Pyrmont 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 – Pyrmont 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 – Pyrmont 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.

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.