

Commissioner for Productivity
NSW Productivity Commission

By Email: ICReview@productivity.nsw.gov.au

5 August 2020

Dear Mr Achterstraat AM,

Issue Paper – Review of Infrastructure Contributions in New South Wales, July 2020

City of Ryde Council (**Council**) would like to thank the NSW Productivity Commission for the opportunity to make a submission on its review of the NSW Infrastructure Contributions System.

Council supports the review and has provided detailed submissions to previous reviews to the system that remain relevant. It is noted that the terms of reference includes drawing on previous reviews and it is our request that this includes detailed consideration and responses to the submissions made to those reviews. This should not only include Council's submissions, but submissions of other relevant stakeholders, for example, many of the matters raised in IPART's submissions to the planning reforms issues paper are still relevant see:

https://www.ipart.nsw.gov.au/files/sharedassets/website/trimholdingbay/ipart_submission_to_nsw_planning_system_review_-_february_2012.pdf

and

https://www.ipart.nsw.gov.au/files/20c2d82e-7256-40b2-bb78-a1f600ab5e7e/IPART_Submission_-_NSW_Planning_System_Review_White_Paper_-_June_2013.pdf

Similarly, Local Government NSW and the North Sydney Regional Organisation of Councils (NSROC) have also made a number of submissions relating to potential contributions reform, which remain relevant and should be reviewed, for example:

<https://www.lgnsw.org.au/files/imce-uploads/127/lgnsw-submission-to-nsw-dpe-on-improving-voluntary-planning-agreements-jan-2017.pdf>

Most recently, Council provided a submission to the exhibition of proposed improvements to the system undertaken by the Department of Planning Industry and Environment in June 2020. The full submission is attached for your reference, and a summary of key elements is provided below.

Council requests that consideration be given to incorporating effective Value Capture mechanisms as a key component of the contributions system. When undertaken in a clear and transparent manner, within an established and equitable framework, Value Capture can assist in demonstrating to the community that all landowners and developers are equally required to ensure growth is beneficial to the community.

Value Capture principles can be used as a means of clearly expressing the value of public benefits provided in planning agreements. It also assists in demonstrating the appropriateness of those benefits in the wider context of the value being afforded to a landowner. More specifically, by providing a framework to quantify land value uplift, Value Capture is a useful tool in determining the affordability threshold of development in light of necessary public benefit contributions to provide required supporting infrastructure.

Developers have demonstrated their willingness to work with communities to appropriately share the benefits of growth, notwithstanding concerns raised in some sections of the industry around inconsistent application of value capture across the state. A value capture framework consistently applied would improve equity and would also allow more confident and effective planning for planning authorities and landowners. Council has many examples occurring in Macquarie Park, which utilises a value capture type system under Clause 6.9 of the Ryde Local Environmental Plan 2014.

An appropriate framework including value capture provisions as part of a well-managed system would facilitate significant infrastructure projects in NSW at both regional and local levels. This would more effectively mitigate the impacts of growth, improving living standards. Further, it would ensure community could make informed decisions about growth, with confidence that the benefits will be shared with the community in an equitable and transparent manner. Council suggests that the Productivity Commission provide some direction around the appropriate use of Value Capture as part of its review recognizing the benefits outlined above and having regard to best practice value capture models used elsewhere or identified in previous reviews. Council is of the view that private entities should not receive all the windfall gain from planning decisions of State or Local Governments, as the Governments represent the community of NSW and the community should also share in such gains.

Annual indexation of contributions thresholds should also be considered to ensure the framework remains efficient between reviews. Council is also of the view that the Essential Works List (**EWL**) currently used in relation to Contributions Plans needs to be reviewed. A current gap in the EWL is funding for construction, fitout or upgrade of community facilities and buildings. Whilst the EWL allows a contributions plan to fund land acquisitions for community facilities, it does not allow a contributions plan to raise funds for the construction, fitout or upgrade of these facilities. This leaves the burden on the existing community to fund these infrastructure requirements, which in most cases arise due to demand generated by new development. Therefore, the existing community is subsidising new development. In many cases, developers are agreeable to dedicate such land at no cost to Council's where they are receiving uplift in development yields. Council should then be able to appropriately levy development for the construction and fitout of these much-needed facilities.

Council also notes the Commission is considering the role the contributions plan plays in provision of Affordable Housing. The need for inclusionary zoning and other interventions to address the affordability crisis faced by Metropolitan Sydney and other areas in high demand is well established. This represents an opportunity to set a feasible benchmark to ensure an appropriate minimum contribution to affordable housing is required where appropriate.

Further to the above, it is noted that the issues paper poses a significant number of explicit questions relating to the contributions system. It is Council's view that the period of time provided is insufficient to make a thoughtful and considered response to these questions in full. Council received the notice of the Issues Paper on 13 July 2020, with submissions open until 5 August 2020. Noting that there are several other policy exhibitions occurring concurrently, as well as the increased pressure on resources associated with the current pandemic, it is suggested that a fulsome exhibition be undertaken to ensure this important review generates the detailed and nuanced responses required.

A review of this significance and complexity should include more substantial opportunity for the industry and wider community to respond. It is noted that the issues paper states:

The Issues Paper will be followed by a series of stakeholder roundtables (held in August) with participation from NSW Government agencies, local government, industry, and community groups. This will enable further discussion of the issues and feedback on potential reform options.



It is unclear why the cut-off for written submissions would need to be received by 5 August if the consultation will be continuing beyond that time. Allowing detailed consideration to occur in parallel to the roundtables would facilitate better quality submissions and, therefore, better quality outcomes, with no negative impact to overall timeframes.

Further, scheduling one month to allow meaningful consultation on such an important and nuanced matter with such a wide range of stakeholders is insufficient. A small number of roundtables in the midst of a pandemic will not be an effective means of ensuring stakeholders issues are understood, nor will it give stakeholders confidence in the review process.

It is also noted that community confidence in the contributions system is extremely important and is one of the challenges the current system faces. Greater effort should be undertaken to promote this review in the community outside the development and regulatory industries, as community engagement and input.

Extending the exhibition by a couple of weeks would not be appropriate to address this (as some stakeholders will have already opted not to participate given the inadequate amount of time); a new, longer exhibition program should be established, and it should include targeted industry and community workshops/information sessions.

Notwithstanding the above, a review of the contributions framework is much needed and Council supports the breadth of the scope. We would like to be invited to participate in the future stakeholder discussions to provide more detailed feedback on the wider range of issues under review.

Council hopes this issues relating to the limited opportunity for review and feedback can be addressed so that detailed feedback on the full range of issues raised in the paper can be addressed.

If you wish to discuss the matters raised by Council could you please contact

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