NSROC
Northern Sydney Regional Organisation of Councils

5 August 2020

Peter Archterstraat AM
Commissioner
NSW Productivity Commission
Email: ICReview@productivity.nsw.gov.au

Dear Mr Archterstraat AM

NSROC feedback to the Review of Infrastructure Contributions in NSW Issues Paper

Northern Sydney Regional Organisation of Councils (NSROC) appreciates the opportunity to make a submission to the NSW Productivity Commission on the Review of Infrastructure Contributions in NSW.

NSROC is a voluntary association of eight local government authorities in northern Sydney whose member councils service an area of 639km^2, stretching from the Hawkesbury River in the north to Sydney Harbour and Parramatta River as far upstream as Meadowbank in the south and west of Middle Harbour.

In summary, NSROC feedback on the Review of Infrastructure Contributions in NSW focuses on the following points, with further detail provided in the attached.

1. NSROC member councils support this review, and are wanting to be more proactively engaged in further discussions, we would welcome an invitation to participate in more detailed discussions on the issues raised.
2. Previous submissions have provided extensive feedback on many of the issues raised over recent years, these submissions should have informed the Issues Paper and the proposed roundtable discussions.
3. Given the complexity and perception of the current contribution system, the engagement program needs to be more robust than planned. It should provide a real opportunity for all stakeholders to have discussions, reflect on the issues and provide more fulsome submissions.
4. Infrastructure charges should fully fund increased essential and community infrastructure required to cater for growth.

It is unfortunate that we have not had sufficient time to review all elements and answer all questions posed, however the majority are covered in previous responses. Our member councils would welcome further discussions on all issues through the roundtable process.

Should you require further information, please do not hesitate to contact me on [redacted]

Yours sincerely

[redacted]

[redacted]

Northern Sydney Regional Organisation of Councils
PO Box 20, Lane Cove, NSW 1595

Submission

NSW Productivity Commission

Review of Infrastructure Contributions in NSW

5 August 2020

Prepared by Northern Sydney Regional Organisation of Councils

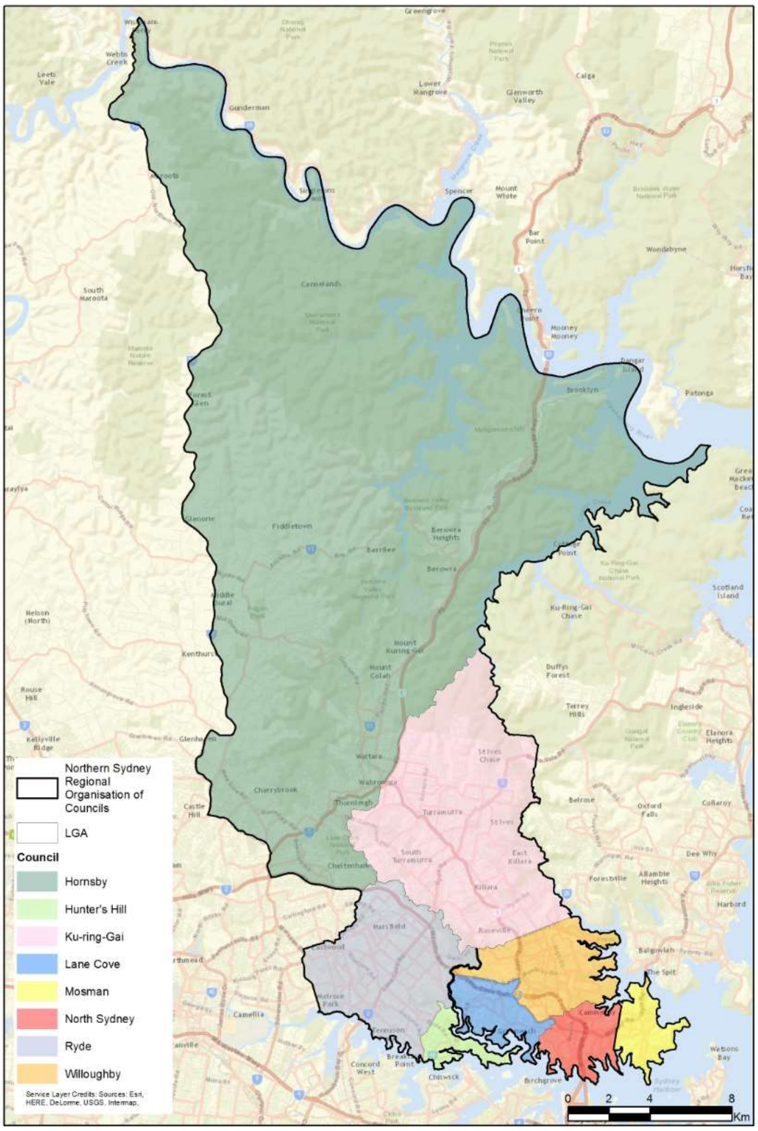
Member Councils: Hornsby Council
Hunter's Hill Council
Ku-ring-gai Council
Lane Cove Council
Mosman Council
North Sydney Council
City of Ryde Council
Willoughby City Council

Contact: [redacted]

INTRODUCTION

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to make this submission to the Review of Infrastructure Contributions in NSW Issues Paper.

NSROC is a voluntary association of eight local government authorities in Sydney. The councils service an area extending from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River, as shown in Map 1. The region is home to over 625,000 people, over 400,000 jobs, over 82,000 businesses and a Gross Regional Product of $68.65 billion, representing 11.52% of the state's Gross State Product.



Map 1: Northern Sydney Regional Organisation of Councils area

Our member councils directly employ nearly 3,300 staff and provide an array of services and infrastructure for the benefit of the community. As consent authorities, any changes to the current planning framework will have substantial impacts on our strategic planning, funding models, operational processes, and also directly impacts our communities and the type of benefit they can anticipate from development.

It is in this context that NSROC makes this submission, which represents the view of our member councils, while noting, individual councils may also make an independent submission.

SPECIFIC FEEDBACK

NSROC welcomes this review. Given the significant impacts any changes will have on local government both strategically and operationally, recognition of local government as a core stakeholder and the level of engagement should be commensurate with this role. NSROC trusts that the information we and others provide during this engagement process will lead to a better understanding of the local government perspective and support further active participation from councils.

It is recognised that the issues and the system are complex. Even so, it is important that any reforms recommended do not stifle innovation, do not limit good options and outcomes, and do not inhibit or preclude the ability to respond to changing local demands. Reforms must also recognise that development in metropolitan areas is different to other areas of the State in terms of cost of land, population pressures and type of development.

Previous Feedback

NSROC previously provided a submission to the Department of Planning, Industry and Environment on the proposed Infrastructure Contributions System Improvements Issues Paper. In addition, NSROC has also written to Minister Stokes regarding the deferred contributions issue recently raised. Both of these documents were forwarded to the Productivity Commission for your consideration into the development of this Issues Paper (via email 12/6/2020), I am unclear if these have been reviewed. More recently, NSROC sent a follow up letter on an exemption process for deferred contributions.

These documents form part of our submission, as attached:
Attachment 1: DPIE Submission on Infrastructure Contributions System Improvements
Attachment 2: Letter to Minister Stokes on deferred contributions
Attachment 3: Letter to Minister Stokes requesting exemption for deferred contributions.

In addition, in previous years there have also been submissions made to IPART / DPIE on the planning reforms issues paper, the planning system white paper and improving voluntary planning agreements. The feedback contained in these submissions from NSROC and our member councils remain relevant and should be reviewed.

Engagement Process

Given the complexity of the system and the potential for significant change to the planning system a meaningful engagement process should be undertaken. Some concerns with the engagement plan includes:

- Over recent years there have been many opportunities in which local government have provided feedback on the planning and rating system. It seems that this previous feedback has not been considered to develop a more informed Review / Issues Paper.
- The one month timeframe for review of this Issues Paper was not sufficient, noting many only received the information mid July.
- 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.
- Given the complexity and the perception of the system, undertaking a more thorough engagement (communication and consultation) with all stakeholders is warranted.
- It is unclear which stakeholders were engaged in May and June to assist in shaping the Issues Paper and those who will be invited to the roundtables in August and when these will occur.
- There is no understanding of the engagement or implementation process on the shortlist of reform options paper after the roundtables, other than a report being provided to the Minister by the end of the year.

Given the short time frame for comment on the Issues Paper and the complexity of the issues, NSROC sees tremendous value in a more robust discussion process. Our member councils would welcome the opportunity to be actively engaged in future processes.

Funding for infrastructure works

As outlined in our previous submission, a key issue for local government and our communities is that infrastructure charges only partly fund essential infrastructure, leaving local government to fund the balance, which we do not have capacity to do. This particularly applies where the State policy of rate capping is linked to historical operating cost and significantly restricts capacity to fund the balance of new infrastructure works. Infrastructure charges should fully fund increased essential and community infrastructure required to cater for growth.

This issue has also been reinforced through our recently developed Northern Sydney Social and Cultural Infrastructure Strategy and the Northern Sydney Transport Infrastructure Strategy. Both documents highlight the significant need for additional infrastructure to support the increasing population, challenges experienced with existing infrastructure, cost and availability of land in the region, and limited funds generated through rates and developer contributions. To deliver on the aims of these Strategies, it will require funding from a range of sources for our member councils to be able to provide services that are critical to maintaining the region's liveability, productivity and sustainability values with the anticipated growth. These Strategies identified a number of funding options to be explored, as outlined below, which support our previous submission.

Development contributions:
- A new Local Government Regional Growth Infrastructure Charge, to be instituted to enable a council or a group of councils to fund the provision of new or expanded regional and sub-regional facilities.
- Remove red-tape around the process of seeking above cap section 7-11 development contributions easier and to either do away with the essential works list or to amend it to reflect contemporary building and fit-out standards
- Effective value capture mechanisms to apply a proportion of value created from government-initiated projects to the funding of infrastructure investment. These mechanisms include: levies, rates and taxes; commercial opportunities; fees and charges; negotiated beneficiary payments and in-kind contributions.

Loans:
- Access to loan arrangements backed by income from development levies to bring forward delivery of infrastructure.

Grants:
- Review of the State Government grants system and the establishment of a fund similar to the Regional Sports Infrastructure Fund for the provision of community and cultural facilities.
- Grants should include provisions for the funding of ongoing operational expenditure of community and cultural facilities

Partnerships:
- A mix of Local Government, State Government, developer, not-for-profit sector partnerships for bringing new infrastructure online for the benefit of the community.

CONCLUSION

NSROC recognises the need for improvements to be made to the planning framework to achieve a better process and outcome for councils, developers and our communities. Our member councils want to work together with other stakeholders to ensure there is a system that supports open and transparent processes for the delivery of necessary public benefit and will ensure clarity is provided to all stakeholders.

Our member councils would like to be invited to participate in future workshops and roundtables to provide more detailed feedback on the wide range of issues identified.

- ENDS –

ATTACHMENT 1: DPIE Submission on Infrastructure Contributions System Improvements

12 June 2020

Executive Director
Planning Policy
Department of Planning, Industry and Environment
C/- Online Submission Portal https://www.planning.nsw.gov.au/Policy-and-Legislation/Infrastructure/Infrastructure-Funding/Improving-the-infrastructure-contributions-system

Dear Sir / Madam

NSROC feedback to the *Infrastructure Contributions System Improvements.*

Northern Sydney Regional Organisation of Councils (NSROC) appreciates the opportunity to make a submission to the Department of Planning, Industry and Environment on the *Infrastructure Contributions System Improvements:*

- *Planning Agreements Practice Note Exhibition Draft (April 2020)*
- *Improving the Review of Local Infrastructure Contributions Plans Discussion Paper (April 2020)*
- *Criteria to Request a Higher Section 7.12 Percentage Discussion Paper (April 2020)*
- *Special Infrastructure Contributions Guidelines (April 2020)*
- *Environmental Planning and Assessment Regulation 2000 Proposed Amendments Policy Paper (April 2020).*

NSROC is a voluntary association of eight local government authorities in northern Sydney whose member councils service an area of 639km^2, stretching from the Hawkesbury River in the north to Sydney Harbour and Parramatta River as far upstream as Meadowbank in the south and west of Middle Harbour.

In summary, NSROC feedback on the *Infrastructure Contributions System Improvements* focuses on the following points:

5. The Review should be cognisant that rate capping applied since 1977, makes no allowance for councils to raise general rate revenue to provide new essential / community infrastructure necessary to support growth.
6. VPAs are an essential component of the planning process and should continue to be flexible enough to enable delivery of the best community, design and development outcomes.
7. Value Capture should be part of the holistic contribution framework and enables councils to deliver infrastructure that is required to meet the demands of future populations over and above s7.11 or s7.12 plan.
8. Increase the s7.11 thresholds to reflect actual infrastructure delivery costs.
9. Amend the essential works list to cater for infill councils and the embellishment of community facilities, open spaces and public spaces.
10. Increase the s7.12 percentage to better reflect land values and the cost of infrastructure delivery.
11. Involve local government early in the identification of a SIC and use a SIC levy on a regional basis.
12. Reporting should be transparent, effective for its purpose and not onerous.

Further detail on these points can be found in the attached.

Should you require further information, please do not hesitate to contact me on [redacted]

Yours sincerely

[redacted]

Submission

NSW Department of Planning, Industry and Environment

Infrastructure Contributions System Improvements

12 June 2020

Prepared by Northern Sydney Planners and Northern Sydney Regional Organisation of Councils

Member Councils:	Hornsby Council
	Hunter's Hill Council
	Ku-ring-gai Council
	Lane Cove Council
	Mosman Council
	North Sydney Council
	City of Ryde Council
	Willoughby City Council

Contact: [redacted]

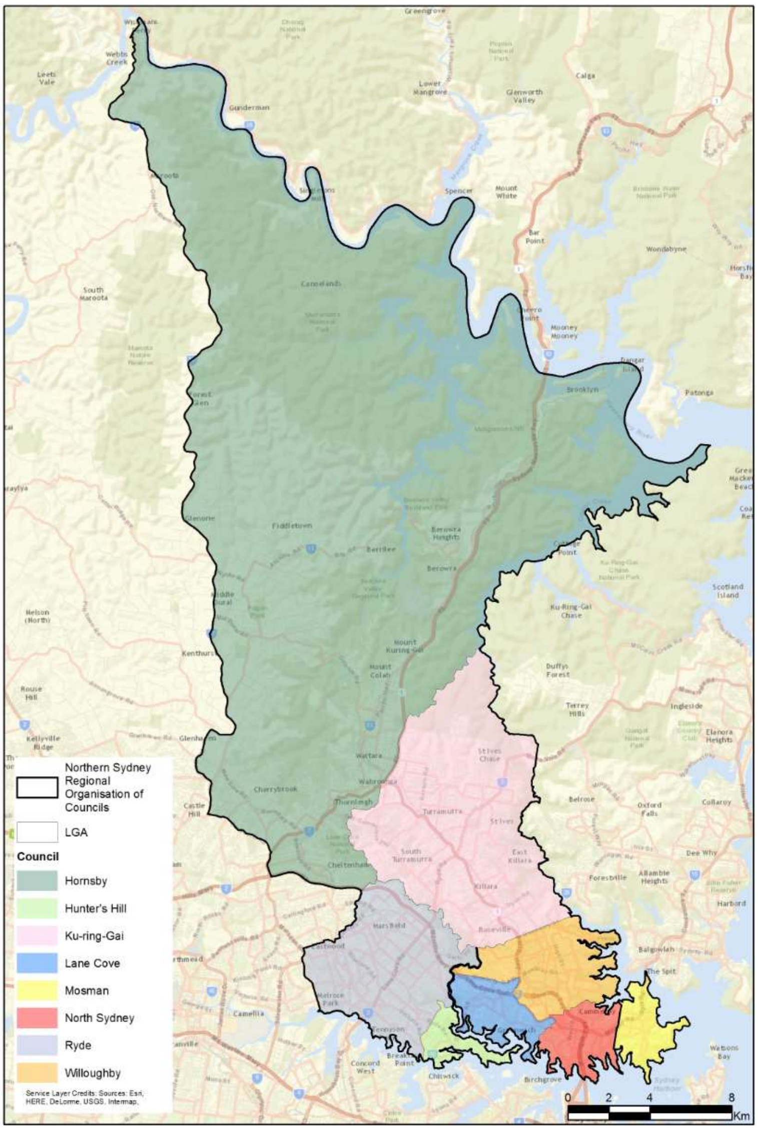
INTRODUCTION

The Northern Sydney Regional Organisation of Councils (NSROC) is pleased to make this submission to the Department of Planning, Industry and Environment on the proposed *Infrastructure Contributions System Improvements.*

NSROC is a voluntary association of eight local government authorities in Sydney. The councils service an area extending from the Hawkesbury River in the north to Sydney Harbour in the south, west to Meadowbank on the Parramatta River, as shown in Map 1. The region is home to over 625,000 people, over 400,000 jobs, over 82,000 businesses and a Gross Regional Product of $68.65 billion, representing 11.52% of the state's Gross State Product.

Our member councils directly employ nearly 3,300 staff and provide an array of services and infrastructure for the benefit of the community. As consent authorities, any changes to the current planning framework will have substantial impacts on our strategic planning, funding models, operational processes, and also directly impacts our communities and the type of benefit they can anticipate from development.

It is in this context that NSROC makes this submission, which represents the view of our member councils, while noting, individual councils may also make an independent submission.



Map 1: Northern Sydney Regional Organisation of Councils area

SPECIFIC FEEDBACK

In principle, NSROC recognises the need to review the current planning framework and supports improvements to streamline the process and make it more reflective of the current market and contemporary practices.

Rates revenue is insufficient to fund all community services and infrastructure required for urban areas with increasing or changing populations, nor is it appropriate for existing communities to shoulder the full burden of delivering the infrastructure required to facilitate growth. In fact more often than not, development contributions are a small piece of the total project costs with councils contributing through general revenue and loans.

Consequently, unless rate capping is removed, infrastructure charges should fully fund increased essential and community infrastructure required to cater for growth. Rate capping has been in place since 1977, effectively pegging general rates to that required to provide services and maintain infrastructure that existed over forty years ago. The calculated rate indexing (capping) that has applied since, pegs councils general rate level to that required to maintain historical infrastructure and provides no capacity for general rates to fund new infrastructure or even maintain new infrastructure provided by development either directly or through infrastructure charges.

Working with developers and through our planning framework, we can work in a transparent way to ensure our communities share the cost and the benefit of development occurring in their area. Given this, it is important to maintain the value from developments in the area it is captured, so that local communities share in the cost and benefit of growth, and this should be reinforced by the NSW planning framework.

NSROC would like some clarity on how this Review, will influence the concurrent NSW Productivity Commission Review of Infrastructure Contributions, changes to EP&A Act and recent and proposed Ministerial Orders including deferral of contribution payments. Our specific feedback on the proposed deferral of contributions payments includes the following and has been provided to both LGNSW, DPIE and the Minister. In summary it raises concerns about: risks to cash flow; delay in providing infrastructure; risks of avoiding or delaying final payments; unsecured creditors; and, operational challenges and additional costs to councils.

It seems that these decisions are being made prior to this or the Productivity Commission Reviews being undertaken, which undermines the engagement process. These processes have significant impacts on local government both strategically and operationally, therefore recognition of local government as a core stakeholder and the level of engagement should be commensurate with this role. NSROC trusts that the information we and others provide during this Review will inform other related review activities to better understand the local government perspective.

Specific feedback on the four documents placed on exhibition is outlined below.

Planning Agreements Practice Note Exhibition Draft (April 2020)

Voluntary Planning Agreements (VPAs) are important elements of planning given the level of community benefit they can provide. Arguably they have delivered some of the best outcomes for councils, because they're flexible and on a voluntary basis. They are an essential component of the planning process and should continue to be flexible to enable delivery of the best community, design and development outcomes.

The purpose in Part 1 is reasonably stated, however there are additional legitimate purposes that need to be acknowledged to ensure the essential role of VPAs is clearly defined and expressed:

- Often VPAs are the most effective way of delivering public benefits that are subject to additional processes beyond those specified in a Development Consent or Local Environmental Plan process, e.g. the detailed design of a facility or future public asset or the subdivision or dedication of land to council. VPAs provide clarity as to who is responsible for each step, when each step must be undertaken, and any relevant standards or securities.
- VPAs also ensure public benefits are delivered to the standard expected by the community by providing a transparent means of establishing relevant standards. Conditions of consent for the delivery of a public benefit may specify only limited detail as to the final specifications. This can result in compromised outcomes when designs are not subject to council approval and are not responsive to the specific needs of the local community, leaving ongoing operational and

maintenance inefficiencies. VPAs offer a means to avoid such outcomes by ensuring councils are clear and transparent as to the required specification of a public benefit up-front.

Making these additions to the purpose of VPAs will ensure they continue to provide a transparent means for delivery of necessary public benefit and ensure all stakeholders understand the appropriate considerations required to pursue effective VPAs.

In relation to Part 2, it is acknowledged that the absence of a Planning Agreement is not in and of itself grounds for the refusal of a Development Application or Planning Proposal. However, there are times where delivery of public benefit is absolutely necessary for a development and a VPA is the most effective means of delivery. In these examples, a VPA is agreed and becomes a necessary component of the process of approval and development, without which, the development would be unacceptable. The current wording should be reviewed to better clarify the role of VPAs within the planning framework.

NSROC agrees with the intent of Part 2.2, that a strong governance framework and a merit concept are essential elements, however it needs to be more nuanced to mitigate adverse impacts, particularly:

- Clarification is required to confirm VPAs play a role in delivering necessary public benefit to support a development.
- Recognition that VPAs are flexible and developers only need 'volunteer' to sign a VPA if there is financial benefit in doing so (otherwise they can build to the controls and pay the required s.11 fees). They are therefore, an efficient market-driven mechanism which have evolved over time to be quite transparent.
- It is acknowledged that a VPA is not sufficient in and of itself, to render an unacceptable development acceptable. However, VPAs should be used when they are the most effective and efficient means to deliver required public benefit and where used appropriately they are necessary to support an approval.
- To sideline VPAs to extraordinary circumstances would not be supported. While it is acknowledged that VPAs may only be appropriate in the minority of cases, the notion that they are 'extraordinary', rather than a normal means of transparently delivering public benefit in appropriate circumstances only serves to further undermine the perception surrounding VPAs.
- If baseline community facilities continue to be deemed 'non-essential' then they will become extraordinary by default. VPAs should not become the chief way of obtaining upgraded community facilities.

Part 2.3, Value Capture (VC) is a key part of the holistic contribution framework. VC capture through a Planning Agreement is an important tool to enable councils to deliver infrastructure that is required to meet the demands of future populations over and above a s7.11 or s7.12 plan, where the current Ministerial thresholds limit the levying for such infrastructure.

There are a number of improvements in relation to the VC component in the Practice Note, specifically:

- Ruling VC out is short sighted, there is value in this model and the Practice Note should not pre-empt the Productivity Commission's Review in this regard.
- Flexibility for Planning Agreements to include affordable housing contributions, as the ever-changing nature of housing supply and tenure means that Planning Agreements are ideally placed to deliver positive and potentially better outcomes than rigid legislation or statutory instruments.
- It is agreed and acknowledged that when poorly implemented, the perception that merit assessments are being compromised by 'cash for development deals' is a concern. This would be better addressed with more transparency and consistency in how VC is to be applied, not less as indicated in the Practice Note. Ultimately there must be a benefit to the developer which has

to be considered on merit under a strong governance framework. The separation of the council considering the community benefit and the respective Planning Panel considering the planning merits, combined with other transparency measures, exercised consistently will achieve this.

- A consistent framework should be established within adopted council policies and should consider and clarify the measures of:
  - land value
  - the full range of costs, including developer costs
  - uplift
  - distribution of uplift across a site or precinct.

Improving the Review of Local Infrastructure Contributions Plans Discussion Paper (April 2020)

It is positive to see the State recognise the currently outdated thresholds, given the increasing land and infrastructure delivery costs since the implementation of the cap. NSROC supports an increase given the current $20,000 cap has been in place since 2008/2009 and has failed to keep pace with actual infrastructure delivery costs. A 'do nothing' approach is not sustainable and will lead to a continuing degradation of community infrastructure service standards as populations increase.

Options 1 and 2 are not supported. Option 1 does not go far enough to reflect the current market and costs associated with infrastructure and land.

NSROC councils would likely quickly reach the Option 2 threshold, and thereafter councils would be required to seek an IPART review just to keep pace with inflationary costs. Alternatively, councils would have to forego the contributions above the threshold, thereby delaying delivery of infrastructure, placing a financial burden on council to meet those costs, resulting in an ongoing degradation of community infrastructure standards.

Option 3 of the Practice Note is a good short term solution. It will provide initial relief and will give councils the ability to move now and also assist in making the IPART route the exception rather than the norm.

NSROC supports the implementation of an indexation mechanism, however, notes Consumer Price Index (CPI) does not fully account for the true increase in costs associated with infrastructure and land and is therefore not an appropriate index to use. In order to keep the method of indexation simple, and given that the DPIE's own audit of contributions plans indicates that capital infrastructure costs (i.e. non-land costs) account for 70% of total contributions, it is suggested that an index more closely aligned with capital infrastructure costs be used. The cap should be indexed reflecting a mix of CPI and house price index, with the formula of the indexation at the overall level and mix of land and works.

A longer term solution must be looked at by the Productivity Commission Review (PCR). Specifically, to create a more detailed and sustainable process to ensure the cap can stay relevant, consideration should be given to an indexation mechanism as outlined above. In addition, the cap should be reviewed regularly to be agile enough to reflect various economic changes. Every four years is recommended to coincide with local government reporting.

An IPART review should be the exception rather than the rule. If the threshold is increasing as recommended above, most councils will likely be able to deliver effective contributions plans within the cap, with only those that have a genuine reason for going higher requiring to submit to IPART. This will not diminish the transparency of the process and will maintain a thorough process for those over and above the threshold.

In addition, the essential works list is focused on land, this must be amended to address the vast differences between infill and brownfield sites. Infill sites, like those of the NSROC region, do not often require funds for land acquisition. We do however, require funds for construction and/or fit out of community facilities and embellishment of open space.

Given the cost of land, in in-fill areas of metropolitan Sydney, the current list effectively excludes community facilities from development contributions. Delivery of new community facilities to support upcoming growth will not be possible using rate income alone. As outlined previously, the rating system isn't designed for growth and rarely covers apportioned co-contributions. Moreover, where the needs are entirely generated by the additional growth from new development, contributions should fund all essential capital infrastructure requirements, whether that capital infrastructure is an entirely new facility or an upgrade to an existing asset. Community facilities are essential capital infrastructure and construction, embellishment, fit out and capacity enhancing upgrades should be added to the list of essential works.

For infill Councils, the cost of land may be such that a more efficient and effective means of delivering the increased capacity would be through the upgrade of existing assets or the fit out of land delivered to Council in stratum. Adding such upgrades and fit outs to the essential works list would greatly improve the sector's capacity to keep pace with growth, and may reduce the need for VPAs in favour of Works In Kind Agreements or simply under more effective and efficient 7.11 Plans.

As councils under the threshold are not subject to the essential works list, this creates a disparity between those who can levy for community facilities and those that can't, which may lead to councils making adjustments to stay under the threshold. This results in compromised plans that do not efficiently or effectively support growth. Hence, the current essential works list is actually operating as a barrier to good infrastructure planning in redeveloping established areas.

It is acknowledged that currently 'base level embellishment' of land acquired for open space is identified on the essential works list. However, the details of what constitutes base level embellishment should be reviewed to better reflect evolving open space needs.

In our region, land for open space is rare and costly, as such, base level embellishment of acquired land, will not support the significant changes our member councils have to undergo to make our existing open spaces as efficient as possible for the intensive use required to accommodate the increasing population and facilities which are already at capacity. This is similar for public and civic spaces that need to be significantly upgraded to address the increased use (e.g.: synthetic fields, floodlighting, paved civic spaces). As is the case with community facilities, consideration should be given to include the upgrade of existing facilities to the essential works list to allow infill councils to more efficiently deliver recreation and public space opportunities to facilitate healthy and liveable communities.

The limitations of the current essential works, as outlined above, delivers unintended consequences whereby a number of communities are not receiving facilities they need because of essential works list not appropriate to infill councils. Without the inclusion of community facilities and appropriate levels of open space embellishment in the essential works list, the framework will continue to result in compromised planning where, rather than deliver clear and comprehensive plans, communities are forced to choose between much needed facilities to stay under the cap.

NSROC supports the improvements suggested in Part 5 to remove the re-exhibition requirements for councils. This will maintain an appropriate level of transparency and opportunity for public participation, while streamlining the process to deliver results in a timelier manner with less duplication. Further to these improvements, it is suggested to combine the initial council and IPART exhibitions, by mirroring the Council exhibition on the IPART website with the intent of reaching more of the development industry earlier in the process.

NSROC supports a review of the IPART Terms of Reference to address the matters identified in the Discussion Paper. The Terms of Reference and/or the Practice Note should be updated to enable IPART to review a contributions plan solely on the basis that the indexation mechanism within the plan has increased the contribution rates beyond the threshold, without requiring a detailed analysis of every aspect of the plan.

In this way, an IPART review of indexation only can be undertaken very quickly to ensure that contributions keep pace with inflationary costs in the event that the thresholds are breached and the annual indexation does not keep pace. An example of this would be if CPI were used for the annual index but there were significant increases in land and/or capital costs in a given period that were not accounted for in CPI. This will enable consent authorities to levy reasonably indexed contributions without the need to continually raise the threshold/s.

NSROC supports the proposed amendment to the EP&A Regulation to remove the requirement for a councils to re-exhibit a contributions plan after IPART review, where amendments to the plan have been made at the direction of the Minister as this is purely a technical and administrative process.

The removal of grandfathering is an issue that will be addressed by individual councils where relevant.

Criteria to Request a Higher Section 7.12 Percentage Discussion Paper (April 2020)

NSROC supports a review of s7.12 contribution rates and recommends that the review extend further, to consider whether the current threshold of 1% is still appropriate. The 1% maximum percentage needs to be reviewed and more appropriate maximum should be established to better reflect land values and the cost of infrastructure delivery.

The establishment of a sliding scale would recognise priorities for LGAs and reflect significant, smaller or neighbourhood centres more appropriately, along with the option to use s7.11, if it can be justified. ıt would also be useful for any slowly redeveloping non-residential area, even one that was not substantially adding to employment where it is very difficult to gauge the type and timing of reuse.

It is recognised that some areas who have State identified strategic centres have been given higher percentage levies. It is recommended that the criteria for s7.12 be revisited to better enable councils who have identified significant future growth in local centres to utilise s7.12. Many Local Strategic Planning Statements (LSPS) and Housing Strategies have identified centres for crucial growth beyond those identified as 'Strategic Centres' in the District Plans. Growth in these local centres is also important to local economies and to housing local communities, this should be supported by appropriate access to the provisions of s7.12.

Section7.12 currently impacts our member councils in a variety of ways. Individual councils may also respond with specific details relevant to their area.

Special Infrastructure Contributions Guidelines (April 2020)

Special Infrastructure Contributions (SICs) are recognised as an important component of the planning framework to enable funding for key additional infrastructure. However, it is essential that SICs are seen as an additional element over and above the essential infrastructure the State would normally provide, and the works councils would undertake funded by development contributions to support the incoming communities. Any proposed move to gather all development contributions within the SIC area will only cost shift the problem back to local government, which is unreasonable.

NSROC supports the preparation of the Guidelines, especially the expanded stakeholder and community consultation provisions. Nevertheless, council involvement in the identification of a SIC should be increased at the beginning of the process in the preparation of any SIC which relates to land within their LGA. This will assist in creating suitable place-based outcomes and will ensure the timing of infrastructure delivered under the SIC is aligned to maximise benefits and limit disruption to the community.

Furthermore, Council requests that the DPIE consider the use of a SIC levy in a more generalised way as 'out of precinct' growth (i.e. infill development) across multiple LGAs is generating a significant demand for regional level community infrastructure (e.g. major recreation and sporting facilities) that cannot be met through traditional s7.11 development contributions given the current and mooted thresholds. Given the potential locations of SICs, individual councils may respond directly on this issue.

Environmental Planning and Assessment Regulation 2000 Proposed Amendments Policy Paper (April 2020)

NSROC supports the principle of publishing relevant information to ensure a transparent process. However, more detail on the specific requirements would be welcome to ensure it is effective for this purpose and will not be so onerous as to increase the cost of administering contributions.

Key elements that should be addressed include:

- It is important to ensure that there is value and utility in capturing and publishing the data, given the already extensive reporting requirements on local government.
- Reporting on the total program of works, rather than individual projects would be recommended given the hundreds of potential line items. For instance, report on the total roll-out of cycle ways vs single sections of cycle ways; complete Centre works vs individual paving; pedestrian; or, traffic works. Accordingly, the suggested level of detail is not supported as it would place an administrative burden on Council and would not be easily read or interpreted by a lay person.
- Considering the end of year reporting already required, NSROC would recommend a reporting deadline of 30 September.
- Transitioning the implementation of any changes will be required. NSROC recommends that reporting should not be on existing planning agreements, as the terms of existing planning agreements have already been agreed and did not envisage such an ongoing administrative burden. It is recommended that the requirements for additional reporting only apply to planning agreements entered into after the commencement of the amended Regulation. This will also ensure that the terms of any future agreements include an administration cost that will be borne by the proponent of the Planning Agreement, rather than council.
- In some cases development contributions are only a component of the total project costs and reporting requirements must not impact commercial in confidence arrangements.
- It is also suggested that the same transparency and rigour be applied to transparent reporting of State income associated with development.
- There are future guidelines mooted in the paper, council's should be able to comment on these before reporting is mandatory.

CONCLUSION

NSROC recognises the need for improvements to be made to the planning framework to achieve a better process and outcome for councils, developers and our communities.

The suggested revisions outlined above, will support open and transparent processes for the delivery of necessary public benefit and will ensure clarity is provided to all stakeholders. Improving processes, increasing thresholds and expanding the essential works list are all important elements to reflect contemporary markets and enable councils to deliver the required infrastructure.

Our member councils will continue to work proactively to deliver the best community, design and development outcomes in our communities.

- ENDS –

ATTACHMENT 2: Letter to Minister Stokes on deferred contributions

Northern Sydney Regional Organisation of Councils
PO Box 20, Lane Cove, NSW 1595

12 June 2020

The Hon. Rob Stokes MP
Minister for Planning and Public Spaces
C/- http://www.nsw.gov.au/ministerstokes

Cc:
[redacted]

Dear The Hon. Rob Stokes MP

Feedback on proposed deferred contribution payments

NSROC is a voluntary association of eight local government authorities in Sydney. The councils include: Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde and Willoughby.

NSROC has been advised that there is a proposal to release a Ministerial Order to defer contribution payments, with the intent to provide cash flow relief for applicants by postponing the condition for the payment of local infrastructure contributions until the issuing of an Occupation Certificate (OC).
We understand the Order will include the following elements:

- It will apply to developments with an estimated cost of over $10m.
- Excludes complying development and subdivision applications.
- Amendments to regulations to prevent OC being issued until a statement is received from council / government that the contribution has been paid.
- Consideration whether the contribution obligation needs to be 'tied to the land' so that conveyancers are aware of obligation.
- Transparency measures identifying outstanding contributions on section 10.7 certificates to provide transparency for new landowners.
- Educating certifiers about infrastructure contributions.

Given we have received this information yesterday, our response is limited to broader issues, although we have seen previous feedback provided by LGNSW and support their submission. We would welcome further engagement with our member councils and local government more broadly to provide a more detailed response.

We are not fundamentally opposed to temporarily deferring up-front payment of contributions during the COVID19 pandemic. However, we have a number of concerns from our member councils regarding the proposed Order, which are outlined below:

a. Deferral should not be extended to the Occupation Certificate (OC) stage, given the risks outlined below including significant impacts on council's cash flow and the delay in providing much needed infrastructure to support development.
b. A higher threshold should be in place.
c. It must be a temporary measure only and an end date identified.
d. Councils use these contributions to provide much needed infrastructure at the time of development, prior to population growth, which is consistent with better practice. Under the proposed model, this would not be possible as councils cannot forward fund these works, as they already have an adopted delivery program in place.
e. Without these contributions up front, delivery of infrastructure would be delayed for many years, the cost of works would only increase over time and the community benefits would be delayed.
f. This model provides an opportunity for the final OC to be delayed to defer or avoid payments which runs the risk of councils never receiving the funds. This poses significant issues when Body Corporates are involved and unaware of the contribution required.
g. The potential risks with Voluntary Planning Agreements under this model being seen as an unsecured creditor.
h. The above concerns add to the operational challenges in mitigating these risks and the potential legal costs for councils to manage this approach, which is an additional burden for local government.
i. A decision such as this is premature, given the Infrastructure Developer Contributions Review and the Productivity Commission Review currently underway.
j. Prior to developing such an Order, significant engagement with all local government should be undertaken.

As outlined above, without a detailed framework and time to consider such a proposal, our feedback is at a high level. NSROC member councils would welcome further engagement on this matter to develop a framework that achieves a suitable framework both strategically and operationally to ensure there are no unintended consequences that impact local government and communities.

I look forward to your consideration of these matters and hope for further engagement with our member councils.

Yours sincerely

[redacted]

[redacted]

On behalf of NSROC General Managers Advisory Committee

ATTACHMENT 3: **Letter to Minister Stokes requesting exemption for deferred contributions.**

NSROC
Northern Sydney Regional Organisation of Councils

29 July 2020

The Hon. Rob Stokes MP
Minister for Planning and Public Spaces
C/- [redacted]
http://www.nsw.gov.au/ministerstokes

Dear Minister Stokes

Payment of s7.11 prior to the issue of Occupation Certificates

NSROC is a voluntary association of eight local government authorities in Sydney. The councils include: Hornsby, Hunter's Hill, Ku-ring-gai, Lane Cove, Mosman, North Sydney, Ryde and Willoughby.

Further to our previous correspondence dated 12 June 2020 outlining our feedback on the proposed deferred contribution payments. I refer to your recent announcement to allow the postponement of the payment of s7.11 charges until an Occupation Certificate has been issued. NSROC opposes this, as many councils do not have a backlog of s7.11 funded projects and have clear plans for expenditure.

We would request that an exemption process be developed to allow the Minister to direct payment be made at Construction Certificate stage. This option will support councils collecting for infrastructure directly related to an individual development and prevent delaying delivery of infrastructure for many years. As you know, councils use these contributions to provide much needed infrastructure at the time of development, prior to population growth, which is consistent with better practice.

I trust you understand the challenge this poses for not only councils with the increasing costs over time, but also the impact of delaying the benefits to current and future residents.

If you wish to discuss this matter I can be contacted on [redacted]. I look forward to your response.

Yours sincerely

[redacted]

[redacted]