

10 December 2021

Department of Planning, Industry and Environment
Infrastructure Funding Policy Team
infrastructure.contributions@planning.nsw.gov.au

Submitted via Planning Portal

Dear Sir/Madam,

Hornsby Shire Council - Submission on Infrastructure Contributions Reform

Thank you for the opportunity to comment on the Infrastructure Contributions Reform package.

Due to the timing of the exhibition period, at its meeting on 10 November 2021, Council delegated authority to the General Manager to make a submission on the Department of Planning, Infrastructure and Environment (DPIE) Infrastructure Contributions Reform package. In accordance with this delegation, Council officers have prepared this response outlining Council's concerns and feedback on the reform package as provided below. We will however seek further guidance from the newly elected Council following the declaration of the poll.

1. Regional Infrastructure Contributions (RIC)

Council's July 2021 submission to the Parliamentary Inquiry into Infrastructure Contributions Reforms raised a number of concerns with details around the implementation of a RIC. It is pleasing that, since the commencement of the exhibition of the reform package, the State Government has proposed changes that would see RIC funds spent within the Region in which the development is located. However, Council remains of the view that the funds should be spent within the District in which it is collected to provide tangible benefits for the communities living in the areas where development is occurring in accordance with the strategic planning priorities in the district and local plans.

Local councils will also be required to formally nominate regional infrastructure projects for RIC funding, including making the case for change, project benefits, economic justification, value for money and alignment to the RIC funding objectives. This process raises concerns as it is understood that Treasury will be responsible for considering the allocation of funds. However, the projects for regional infrastructure should be progressed on the basis of nexus to the development in the area in which it is proposed. If the RICs do not have a nexus requirement, the same principle should apply to local contributions and the nexus relaxed to allow more flexibility for councils in line with the expenditure of the RIC.

It is understood that the mechanism for a RIC to be introduced will be through a proposed SEPP and a RIC would be payable in addition to any local development contribution levied for the development. This is of concern as it would increase the overall costs of development. This would appear to be inconsistent with State Government's aim of addressing housing affordability with the increased development costs likely to be reflected in the end market cost. The provision of regional infrastructure should not come at the expense of local development contributions.

2. Local Contributions

To assist consideration of the impacts of the proposed changes to local contributions under Section 7.11 and Section 7.12, NSROC engaged independent consultants GLN Planning to undertake financial modelling. The results of the modelling indicates that the proposed changes would have negative revenue projections for both the Region and Hornsby Council specifically. It is our understanding that the NSW Government has committed that no Council will be worse off as a result of the proposed reforms. However, GLN's financial modelling indicates that, even including additional income due to rates reforms, Council would have a cumulative net income reduction of \$51.3 million by 2040/41. The projected increase in income from proposed rate reforms would be in the order of \$51.8 million. However, this would not offset the potential loss of \$103.1 million over the same period.

The consultants have identified that the main impact on projected income for Council is the proposal to exclude 'non-essential' works (i.e. community facilities, indoor recreation and public domain improvements) from s7.11 contributions. To ensure that the State Government achieves its commitment that councils will not be worse off as a result of the reforms, direction is required which allows community facilities, indoor recreation and public domain improvements to be levied for under s7.11 contributions where there is nexus with the new development. These issues are discussed in more detail below.

a) Section 7.11 Contributions (local infrastructure conditions)

Council's July 2021 submission to the Parliamentary Inquiry into Infrastructure Contributions Reforms raised concerns with removing the ability to levy contributions under Section 7.11 for community and indoor recreation facilities. The IPART draft report, which is on exhibition concurrent to the infrastructure reform package, includes details of the Essential Works List (EWL) which would apply to all contribution plans.

The justification for the recommendation from the NSW Productivity Commission to apply the EWL to all Section 7.11 contributions plans is not clear and the IPART review does not explore or explain the reason for the broadening of its application. If a contributions plan can be implemented below the relevant cap, it should remain up to the individual council what infrastructure is required to support growth and development, rather than imposing an EWL.

As outlined in Council's submission to the Parliamentary Inquiry, within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, community and indoor recreation facilities represent 36% of Council's works program costs. Removal of the ability to levy contributions for community and indoor recreation facilities would result in a potential loss of income for Council in the order of \$59 - \$90 million over the next 17 years (being the period from the proposed commencement of the changes in 2024 to 2041).

The essential works list also restricts the provision of public domain improvements which are essential components of creating liveable, connected and accessible communities. This is inconsistent with the draft State Government *Design and Place State Environmental Planning Policy* which includes design principles and controls aimed to facilitate the provision of a high quality and diverse public domain spaces including streets and open spaces in concert with new development. It is essential that the interface between the public and private domain be planned and funded as a component of the development process.

Consistent with the principles of the draft SEPP, within the Hornsby 7.11 Development Contributions Plan 2020 – 2030, public domain improvements with a direct nexus to high density development activity in housing precincts represent 8% of Council's works program costs. Removal of the ability to levy contributions for public domain improvements would result in a potential loss of income for Council in the order of \$13 million over the next 17 years.

Council's Contributions Plan is largely based on providing additional services to cater for forecast growth within areas rezoned for higher density residential development as part of Council's Housing Strategy to meet State Government obligations for housing provision. To cater for anticipated growth, the Plan includes an extensive works schedule of road, local open space, recreational and community facilities projects with total costs over \$340 million with \$157 million of those costs to be levied from development contributions. Such a significant

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reduction in the types of infrastructure which can be included in a contributions plan works schedule would reduce Council's capacity to deliver the extent of planned infrastructure to support population growth.

One of the main issues raised by the Hornsby community in community satisfaction surveys is resident concerns about the impacts of increased residential development and the need to ensure that infrastructure supports the development. With the changes proposed, Council's capacity to provide this infrastructure and the timeliness of any delivery will be significantly impacted. Consequently, community support (or tolerance) of increased densities to meet State housing obligations will be more difficult to attain as we try to plan for growth into the future.

The above comments have also been included in Council's submission on the IPART draft report.

b) Land Value Contributions

The framework for a land value contribution is welcomed as it provides an alternative mechanism to enable councils to fund local infrastructure by requiring landowners in areas that are up zoned to contribute towards land required for public purposes.

However, there is no justification for the proposed maximum land value contribution of 20% of the land value uplift. Dependent on the changes to land use and the level of intensity in a given area, the percentage levied may need be higher and proportionate to the infrastructure required to support the new development. An upper limit should not be imposed for the percentage levied for land value contribution. Instead, consideration should be given that when a Section 7.11 plan is prepared, detail costings should be supplied by local councils to justify the percentage levied.

c) Section 7.12 Contributions (local levy conditions)

It is pleasing that the reform package responds to Council's concerns about proposed exemptions for alterations and additions and that dwelling alterations and additions will be able to be levied. However, it is understood that alterations and additions would be charged on a per bedroom rate. This will increase uncertainty in the assessment process when seeking to determine where an additional room would constitute a bedroom. The matter may be further compounded through the private certification process. As most of the income received under Hornsby's Section 7.12 plan is associated with applications for alterations and additions to residential dwellings, Council may end up disadvantaged under the new framework.

Council instead supports amending the local levy conditions to the maximum percentage that can be levied, up to 3% of the cost for residential development and up to 1% of the cost for non-residential development. This will provide certainty and transparency and will ensure the provision of local infrastructure under the Section 7.12 plans.

d) Deferring payment of contributions to occupation certificate stage

Council maintains its concerns with the proposal to permanently allow contributions payable at the occupation certificate stage rather than before construction starts. This amendment is inconsistent with the purpose of levying contributions that seek to ensure community infrastructure is delivered in a timely manner in conjunction with development.

Ensuring follow up non-payment of contributions at the occupancy stage is a further administrative burden on councils as they do not always have control over the full or partial occupation of buildings (i.e. when a private certifier is used) and there is a significant risk that occupation occurs without contributions being paid. The burden will fall to Council to act against the private certifier and potentially occupants of the building or the body corporate which is a difficult and for residents of new development, a stressful and uncertain process.

The recommendation to include borrowing costs in to forward fund infrastructure delivery in the EWL is simply a cost shifting process. Any saving to developers by the delayed payment of contributions would be offset by inclusion of the costs in a developer contributions plan. Accordingly, in acknowledgement of the cost to councils and the administrative burden by delaying payment of development contributions, the pre-COVID arrangements for payment of contributions at the constructions stage should be reinstated to facilitate the timely delivery of infrastructure with development.

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3. Land Use Planning

a) Contributions Plans and Planning Proposals

The Ministerial Direction that contributions plans are to be prepared upfront (where relevant) and exhibited with a planning proposal is supported. Determining early in the process whether a local contributions plan is required and how it is to be implemented for a planning proposal provides certainty for the provision of infrastructure to support the change in land use. However, there is concern with the potential additional administrative burden on councils in the case of proponent led proposals. It is understood Council would be required to review and provide comments on the draft contributions plan and come to a position to include "in principle" support for the plan at the time Council resolves (if they choose) to support the planning proposal, within the same statutory timeframe currently required. The timeframe for the assessment of planning proposals should be increased to acknowledge the additional process for the preparation and "in principle" support of a draft contributions plan with rezoning proposals.

b) Dual and shared use of open space

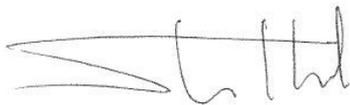
The Ministerial Direction encouraging opportunities for shared use of public open space, drainage and public facilities appears to be in contradiction to the proposal to benchmark costs and embellishment at base level. The benchmark costs do not acknowledge that these spaces are often designed and constructed for multi-purpose or shared use. Therefore, to support this Ministerial Direction, flexibility instead of benchmark costings is required to encourage consideration of best practice design in the delivery of the assets and the to meet the demands of various users.

In summary, whilst it is pleasing to see that the Infrastructure Reform package responds to some aspects of the extensive advocacy by councils and industry groups, there remains concern that the proposed changes to the development contribution system will undermine the delivery of critical infrastructure required to support the growth and wellbeing of local communities. Financial modelling indicates negative revenue projections association with Section 7.11 contributions due to the changes proposed. Council reiterates its position that proposed changes to rate pegging do not adequately compensate for population growth or offset the anticipated loss in development contributions. Specifically, we understand that the NSW State Government has outlined that no Council will be worse off under the proposed reforms. We offer these comments

We offer and trust these comments are of assistance to the Government in ensuring it achieves its stated aim. Council requests the State Government continue to work with councils, industry and the community to make further improvements to the infrastructure contributions reform package.

Should you require any clarification in relation to any of the matters raised, please do not hesitate to contact me on 9847 6602 or Mr James Farrington, Director Planning and Compliance on 9847 6750.

Yours faithfully



Steven Head

General Manager

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