

Submission
No 146

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (INFRASTRUCTURE
CONTRIBUTIONS) BILL 2021**

Organisation: City of Ryde Council

Date Received: 14 July 2021

City of Ryde Submission

**Legislative Council: Inquiry into the Environmental
Planning and Assessment Amendment (Infrastructure
Contributions) Bill 2021**

Public Exhibition 24 June 2021 to 11 July 2021

**Extension to 15 July 2021 granted
Submission Date: 14 July 2021**

The City of Ryde (Council) thanks the Legislative Council for the opportunity to provide input with respect to the Environment Planning and Assessment Amendment (Infrastructure Contributions).

The City of Ryde is home to approximately 130,000 residents and is expected to grow to 160,000 by 2031; it is a significant contributor to the State and National economy with a GRP of \$16.74 billion and 105,000 local jobs. The ongoing success of the City of Ryde is crucial to helping accommodate a growing Sydney and maintaining a strong economy.

While Council acknowledges the need for an improved Infrastructure Contributions framework, it is imperative that any changes are carefully considered and implemented to ensure that ongoing growth delivers community benefit and not just an increased burden to local communities.

Appropriate community engagement with the changes should be achieved prior to implementation. While taken together, the various exhibitions of material related to improving the Infrastructure Contributions system appear to suggest reasonable public exhibition has been undertaken. Both the Productivity Commission and the Department of Planning Industry and Environment have recently exhibited associated work aimed at improving the contributions system. However, in those previous exhibitions significant details with respect to precisely what the changes would be and how they would be implemented were not yet known, undermining the ability of Councils and other stakeholders in providing necessary feedback. As such, these previous exhibitions cannot be relied upon as providing adequate consultation on the changes proposed in the current Bill.

An iterative process is required to develop changes of this significance and complexity. It is disappointing that more time was not allocated for further comment from stakeholders now that the finer details of the proposal have become clear. It is recommended that the Bill be withdrawn to address this key issue.

Furthermore, while these changes have significant impacts on local communities, there appears to have little to no effort made to directly engage the residents of NSW in this process. A key issue with the Infrastructure Contributions system is the perception that there is a lack of transparency and a feeling of disempowerment. The lack of direct consultation with the wider community is a missed opportunity to increase understanding with respect to how local and state governments ensure growth is contributing to amenity and infrastructure provision. The lack of direct community engagement activities will reinforce community concerns relating to transparency. It should not be left to Councils or local community organisations to ensure State changes are actively communicated to residents. It is recommended that the Bill be withdrawn for direct community consultation, this should not be limited to online notice of exhibition or online surveys and should include wider promotion and opportunities for members of the community to be informed and to provide general feedback.

Council would require more time to provide a fulsome and detailed response to all the changes proposed; after a preliminary review of the changes in the limited time since their publication, the following areas of concern are raised.

As noted above, the exhibited materials do not contain sufficient detail to assess the impact of some of the changes. For example, the changes to 7.12 Fixed development consent levies - (5) (a), refers to implementing maximum limits for levies for specific types of development via as yet unspecified changes to the Regulations. The maximums and types of development are not clear so it is difficult to comment on the impact of this change. This also applies to the proposed changes to 7.16A and 7.18A. It is recommended that the Bill be withdrawn until such time as the detail of associated changes to the Regulations can be publicly exhibited.

The proposed implementation of a “Land value contribution” was not included in previously exhibited materials and a number of aspects are unclear. The proposed changes to Subdivision 3A places requirements on the vendor prior to sale of land being completed. For example, who will be tasked with ensuring compliance with this requirement? Section 7.16D refers to as yet unspecified regulations, and this makes it impossible to evaluate the efficacy of this proposed change. It refers to Council’s providing land value contributions certificates and a prescribed fee; will this fee cover the costs of administering the provisions in full? Many of the existing fees prescribed in the regulations do not cover the full cost of associated administration or regulatory activities including the set up and management of required systems and/or software. It is recommended that the Bill be withdrawn until such time as the full details of these changes, including the specific administrative processes proposed to administer the changes and the proposed fees required to support them are publicly exhibited.

In principle, introducing provisions that allow contributions to be levied at the time of sale is supported as part of a wider Infrastructure Contributions framework. Implementing an appropriate mechanism for this would be an improvement to the effectiveness and fairness of the system. However, it is unclear why the land value contribution mechanism proposed is only being applied to land acquisition when Councils will also need to embellish acquired land to suit its purpose. Land acquisition is just one of many challenges facing Councils in relation to delivery of infrastructure required to support growth. Many Councils can accommodate growth more effectively and efficiently by undertaking works on existing public land. Not including provision for this to be included in the land value contribution mechanism is a missed opportunity for a more significant and more equitable improvement to the system that would benefit infill Councils as well as greenfield Councils, better supporting necessary densification around existing infrastructure rather than supporting continued sprawl. Moreover, given the added complexity this represents in the context of existing concerns about an already complex system, it is important that any added bureaucracy and complexity is leveraged for maximum improvement to the quality of outcomes produced by the system. It is recommended that any land value contributions mechanism extend beyond land acquisition to allow levying of contributions for necessary upgrades to infrastructure on public land.

Council has existing concerns with respect to the level of power afforded the Minister under Section 7.17 of the act and the potential for its misuse. The opportunity afforded by this process should be taken to ensure that the potential for misuse is addressed and that clearer conditions and/or required circumstances for the use of these powers are put in place. Further, the changes to s1.17(1A) and (1B) provide a concerning level of power to the Minister to extend direction to existing development consents to respectively amend conditions relating to unpaid contributions. Again, without clear limits to this power, the potential for misuse is a significant concern. This also applies to the proposed s7.19. It is recommended that the powers afforded to the Minister under the Act be reviewed in full and appropriate limits and mechanisms for oversight be considered.

Council supports efforts to ensure there is an effective and robust system in place to levy contributions for state infrastructure as well as local infrastructure. However, it is disappointing that the local infrastructure contributions provisions are heavily limited and fettered by comparison to the regional infrastructure contribution requirements. The regional contributions provisions proposed demonstrate that a more open, simpler, common-sense approach is possible. The proposed sections s7.23 and s7.28 are the most striking example of this imbalance and a similarly broad and practical approach to local contributions would be most welcome. Council would also welcome an update to section 7.19 (4) such that local contributions conditions are afforded the same level of protection as the proposed 7.29 affords to regional infrastructure contributions.

Recommendations:

- That the Bill be withdrawn until the full suite of proposed changes are known. This includes any associated provision to the Regulations and other parallel changes to the Infrastructure Contributions Framework arising from the Productivity Commissions review.
- That the full suite of proposed changes be developed with input from all key stakeholders and the community.
- That the proposed changes be promoted directly to the community to increase public awareness and facilitate informed direct consultation. This consultation should extend beyond online notification of an exhibition period and online surveys and materials. It should include facilitated activities to extend awareness and understanding and to allow meaningful general feedback.
- That any proposed Land value contribution include provision to levy for necessary upgrades on existing land and the full set of costs associated with delivering a facility, not just acquisition of land.
- That the existing and proposed powers afforded the Minister under the Act be reviewed and appropriate limits and oversight mechanisms be developed to reduce the risk and potential impact of misuse.
- That a more practical and less restrictive approach to levying of Local Infrastructure Contributions be adopted, similar to that adopted with respect to Regional Infrastructure Contributions.

Notwithstanding the above concerns, Council wishes to acknowledge the investment being made in improving the contributions system and would welcome the opportunity for continued input and collaboration to ensure the system offers more value to the community and is more valued by the community.