

Submission  
No 9

**INQUIRY INTO ENVIRONMENTAL PLANNING AND  
ASSESSMENT AMENDMENT (HOUSING AND  
PRODUCTIVITY CONTRIBUTIONS) BILL 2023**

**Organisation:** Sutherland Shire Council

**Date Received:** 7 June 2023

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06 June 2023

NSW Parliament  
Sue Higginson MLC  
Portfolio Committee No. 7 – Planning and Environment  
[portfoliocommittee7@parliament.nsw.gov.au](mailto:portfoliocommittee7@parliament.nsw.gov.au)

Dear Ms Higginson

**RE: Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023**

The Upper House Inquiry is currently examining proposed amendments to the Environmental Planning and Assessment Act 1979, as part of the NSW Government's reform of the Special Infrastructure Contributions system. Council appreciates the opportunity afforded by the inquiry to provide a submission on the bill.

**Fairness and Reasonableness**

Fundamentally the Bill enables the Minister to radically expand the scope of infrastructure contributions to fund State projects. It does this principally by removing the existing requirement in section 7.23 (2)(a) of the Environmental Planning and Assessment Act 1979 which states:

*“..the Minister is, as far as reasonably practicable, to make the contribution reasonable having regard to the cost of the provision of infrastructure in relation to the development or class of development..”*

Removing this requirement (other than for transport and biodiversity matters) allows the Minister to create a new contributions system which will levy development in any part of Greater Sydney to fund infrastructure anywhere in Greater Sydney. It raises the risk that our community will pay the levies without receiving the benefit of the investment. While the proposed s7.31D requires that payments from the fund may be made to infrastructure identified in a strategic plan, infrastructure plan or State Infrastructure Strategy, there is no guarantee in the Bill that the money will be allocated fairly, proportionally, or reasonably within the region. This is in stark contrast to the requirements imposed on Councils administering their local infrastructure funds.

A Council that wants to collect local infrastructure contributions under section 7.11 of the Act must show they are *“..a reasonable dedication or contribution..”* that is relevant to the development being levied. If a Council determines that the infrastructure burdens cannot be funded within the long standing and arbitrary limits on contributions, it must seek approval from the IPART (Independent Pricing and Regulatory Tribunal) and accept further restrictions on the types of infrastructure they can fund.

The community broadly accepts local infrastructure contributions because these restrictions ensure there is a clear nexus between development that occurs, the money that is collected

and the works on which it is spent. Councils are carefully supervised in their use of these funds to ensure they are not misused. The communities of Greater Sydney will not support the Housing and Productivity Contribution if they do not have confidence that it is fairly applied and used.

### **Risk to Housing Affordability**

The State Government has identified an ambition to redistribute new housing development out of Western Sydney and into Eastern Sydney. The Bill operates counter to this goal.

By introducing flat contributions across Greater Sydney, the cost of providing housing in Eastern Sydney will increase while the cost of providing housing on the fringes of Western Sydney will decrease. The proposed contribution creates perverse incentives to provide more housing in the places where infrastructure costs per dwelling are higher. It also makes it more difficult for well-located housing in Eastern Sydney to be affordably priced by the development industry. While the contribution will not apply to projects that produce affordable housing, it will shrink the margins of other projects which Councils had intended to levy for Affordable Housing Contributions. It therefore places further limits on the capacity of Councils to create affordable housing for their communities.

### **Risk of Further Centralisation**

Council notes the long-standing trend towards centralisation of the planning system by the State. Since 2006 Councils have been required to prepare Local Environmental Plans in accordance with a State defined template. In recent years the State has expanded and mandated the use of NSW Planning Portal for many functions which Councils once provided independently.

The redistribution of decision making to the State serves to disconnect Councils from their communities and limits the scope for innovation and local autonomy. It also creates a single point of failure which may compromise the reliability of basic planning system functions across the whole State at the same time. While this Bill currently excludes any impact on Council's local infrastructure contributions, it establishes processes which could eventually take over of this function too.

### **Risk of Cost Shifting**

The Bill risks indirectly transferring financial pressure from the State to Local Government. By taking the step of broadly applying the Housing and Productivity Contribution, the State is adding pressure to development feasibility across Greater Sydney. Should the proposed \$12k or \$10k contributions proceed, there will be consequent pressure applied to Councils to collect less through local infrastructure contributions, or to provide further planning uplift to maintain project feasibility. Either way, Councils will be pressured to do more local infrastructure work with less funding to support it. The result will be increased pressure on other sources of funds such as rates, fees, and charges to meet community expectations and needs.

Thank you again for this opportunity to comment on this legislation. We look forward to the findings of the inquiry.

Yours sincerely,

Mark Carlon,  
Manager Strategic Planning