

**Submission  
No 15**

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

**Organisation:** Georges River Council

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Macquarie Street  
SYDNEY NSW 2000

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Dear Ms Higginson

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

I refer to the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bills 2023 and the *Housing and Productivity Contribution May 2023* information sheets released by the DPE.

Council welcomes the opportunity to make a submission to the inquiry on the Housing and Productivity Contributions Bill. The proposed changes represent a large change to the infrastructure contributions framework in NSW and Council notes that the timeframe to respond to the Bill has not been sufficient to provide a comprehensive response to all of the measures proposed. Given this timeframe, this is a Council officer submission and not a Council endorsed submission.

While Council officers are broadly in support of the Bill, there are some concerns, particularly about the equity of the new regionally based contribution.

#### **Nexus/Appportionment**

The principles of nexus and apportionment towards regional infrastructure are not adequately provided for in the Bill, largely due to the Greater Sydney basis for region-

based funding, where development in the Eastern Harbour City can contribute towards infrastructure funding in the Western Parklands City. While some infrastructure projects benefit Greater Sydney as a whole, many projects will benefit a smaller catchment. Splitting Greater Sydney into the 3 cities would enable a portion of the contributions to be restricted to regional facilities in the city in which they were collected as well as directing a portion towards infrastructure which benefits the whole of Greater Sydney to ensure the equitable distribution of infrastructure across Greater Sydney.

Further, concerns are raised over the apportionment between Local Infrastructure Contributions and Housing and Productivity (HAP) Contributions. In situations where Council has been collecting contributions in its own Local Infrastructure Contributions Plan and it is subsequently identified in an Infrastructure Opportunities Plan, does this mean that the facility should be apportioned to a larger population base? Can Councils continue to collect funds towards this infrastructure, or will it require an amendment to the local infrastructure contributions plan?

### **Funding of Local Infrastructure**

Councils have been restricted in the level of local infrastructure contributions they can collect to \$20,000 per dwelling by Ministerial Direction. The Direction requires that in order to require development contributions above \$20,000 per dwelling, a review of the contributions plan by the Independent Pricing and Regulatory Tribunal is required, which limits the community infrastructure that Council can provide. This threshold effectively requires existing ratepayers to fund the difference between the actual demand for infrastructure and the amount of infrastructure that can be provided within the \$20,000 cap.

As part of the amendment to the contributions framework, the indexing of the threshold from its original date and on an ongoing basis according to an appropriate construction costs index should be included. This will allow Councils to continue to fund the necessary local infrastructure to allow for communities to develop.

### **Exemptions**

Council raises concerns with providing broad brush exemptions to certain development types. Whilst the provision of additional public and affordable housing should be encouraged, an exemption to the critical infrastructure required to support population growth is not the appropriate way to encourage that development. In particular, affordable housing which is only required to be used for affordable housing for a set time period should not be included in any exemption as the housing will return to market housing at the conclusion of the arrangement. Further, secondary dwellings provided under the Housing State Environmental Planning Policy still result in an



increased demand for local and regional infrastructure and should not be included in the exempt categories.

It could be argued that the residents who would use the housing provided in the exemption categories are more reliant on public infrastructure than other residents and as such, any exemption will have the net result that communities will lack the infrastructure required to function in conjunction with the remainder of the region.

In the event that these developments are made to be exempt, a framework for funding the infrastructure demand generated needs to be developed to ensure that communities do not lose out on local and regional infrastructure needs.

### **Affordable Housing Feasibility**

A significant barrier towards the adoption of an affordable housing contributions scheme is the required feasibility testing of development required to pay such a contribution. Increasing the contributions payable for development wholesale will have an impact on Councils ability to adopt affordable housing contributions schemes and result in the reduced delivery of affordable housing throughout the regions where the HAP contribution will apply.

### **Administration and Calculation of HAP Contributions**

The role of the consent authority needs to be clarified with regards to the administration and of these contributions. While a digital tool is referenced in the DPE documents, it is unclear which parts of the administration that the consent authority will be required to perform and if there will be additional resources provided to Council to assist with this. Several areas of concern are:

- Standard conditions of consent being provided to Councils
- Support for systems to assist in calculating, collecting and reporting contributions
- Application of credits to be applied for existing development on a site
- Council compliance resources required to enforce the conditions
- Maintenance of registers of development contributions in relation to HAP contributions.

### **Conditions of consent**

Council welcomes the addition of clause 7.28(3) that in the event of a failure to impose a HAP contribution condition, any condition requiring a HAP contribution is taken to



have been imposed in the terms required by the Ministerial Planning Order. Council recommends this clause is also included in relation to the imposition of Section 7.11 and Section 7.12 contributions. Council has considerable difficulty in recovering contributions on developments where private certifiers have failed to impose the condition on the development.

In summary, while Council broadly supports the changes proposed, there are still some concerns with the equity of the proposed model and further questions on the burden of administering the scheme for consent authorities.

Should you require any further information, please contact the undersigned on

Yours sincerely

John Hair  
**Senior Development Contributions Planner**

