



26 June 2020

Executive Director Planning Policy
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir or Madam

**Re: Submission regarding the discussion paper
*Improving the review of local infrastructure contributions plans***

Thank you for the opportunity to make a submission and provide feedback on the *Improving the review of local infrastructure contributions plans* - discussion paper.

In particular, we want to note our thanks for agreeing to our request for an extension to 26 June 2020, for SSROC to make this submission.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.7 million, one third of the population of Sydney. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

Overview of proposed reforms

Section 7.11 local infrastructure contributions are used by local councils to fund local infrastructure, ensuring that our communities are supported by appropriate infrastructure. This is critical to making great places and supporting the communities as they grow.

Under the current system for contributions levied pursuant to section 7.11 of the Environmental Planning and Assessment Act 1979 (EP&A Act), if a council wishes to charge a contributions rate in a contributions plan which is above the threshold set by the Minister in the Environmental Planning and Assessment (Local Infrastructure Contributions) Direction 2012 (Ministerial Direction), they must submit the contributions plan to the Independent Pricing and Regulatory Tribunal (IPART) for review. At present, the IPART assesses contributions plans that propose contributions above the threshold of \$30,000 per lot or dwelling in identified greenfield areas and above \$20,000 per dwelling in other areas.

Before a contributions plan is considered an 'IPART reviewed' contributions plan, a preliminary review process must be undertaken which involves several steps by the relevant council, IPART, the Department of Planning, Industry and Environment (Department) and the Minister's nominee. Due to the multiple steps and agencies involved in this process, the Department has found that this process can take anywhere between 12-18 months to be completed.

In summary, the proposed amendments to the contribution plan review process are:

- Increases to the value thresholds that trigger the review process
- The implementation of an annual indexation mechanism for the thresholds that trigger the review process, based on the Consumer Price Index (CPI)
- A review of IPART terms of reference
- The removal of existing exemptions to the review process (i.e. 'grandfathered' contributions plans)
- The removal of the existing requirement for councils to re-exhibit an IPART reviewed contributions plan following the receipt of advice from the Minister's nominee.

It is noted that the increase in the thresholds will mean that contributions plans below the threshold will not be required to go through the IPART review process and will not be limited to the essential works list.

General Comments

SSROC welcomes the opportunity to provide comment on the DPIE discussion paper: *Improving the review of local infrastructure contributions plans* to help make the review process more efficient while maintaining a balance between the needs of residents, local councils and all the other interested stakeholders.

Specific Reform Directions

Increases to the value thresholds that trigger the review process

SSROC supports increasing the threshold(s) for IPART review of s7.11 plans.

The thresholds of \$20,000 and \$30,000 which currently apply are outdated, having been first introduced in 2008 and 2010, respectively. As a consequence, their value in real terms has continuously declined over the past decade, despite the cost of capital and land infrastructure continually increasing due to inflation and other factors.

It is expected that the need for the majority of section 7.11 local infrastructure contributions plans to be reviewed is a likely consequence of this situation, which will contribute to further delays in the review process. To avoid this, it is proposed that the value thresholds that trigger the review process are increased to accurately reflect current infrastructure costs.

The recommendation to increase to the value thresholds that trigger the review process is supported

Appropriate new thresholds

The inadequacy of the current thresholds is widely agreed.

SSROC supports Option 3 noted in the discussion paper of a single threshold of \$45,000 per lot or dwelling. Any council seeking to levy more than this amount would need to have their plan reviewed by IPART.

This reform will simplify the system by applying a single threshold where all s7.11 contribution plans would be subject to an IPART review. It would empower local councils to tailor the levies below this new threshold to better meet local needs and conditions.

The increase in the threshold allows councils to continue to provide local infrastructure needs in accordance with the Act rather than be restricted by the IPART's essential infrastructure list. When preparing s7.11 contributions plans, council will continue to apply the nexus and apportionment requirements outlined in the Act.

This has the added advantage of removing Schedule 2 of the Ministerial Direction. The revised Ministerial Direction would then state that one single threshold applied across NSW.

SSROC's recommendation is to support Option 3: to adopt a single trigger threshold to \$45,000 per lot or per dwelling

Increases to the value thresholds that trigger the review process

The proposal to implement an annual indexation mechanism for the thresholds that trigger the review process aims to address the abovementioned predicament that is driving the number of reviews from arising again in the future.

As the CPI is an established and widely accepted index, the Department proposes to implement an annual adjustment of the thresholds using the CPI published figures for the March quarter of each year.

A similar methodology is used to reflect annual variations with Special Infrastructure contributions (SICs). A common methodology within the system and simplicity to ensure the adjustment is well understood is welcomed.

However, the proposed Consumer Price Index does not reflect the true increase in cost, especially cost of land.

The recommendation to annually increase to the value of the thresholds that trigger the review process by CPI is supported

Indexation of Contribution Plans

Further consideration should be given to the indexation of contribution plans so that for councils operating in urban and/or high cost locations, they should have the ability to select the relevant published index for the local contributions plan, and potentially allow two indexes to apply, e.g. an index for land acquisition and another index for embellishment/construction works. This provision could then apply to Special Contribution Areas as well.

This recommendation should be modelled and further assessed as part of the NSW Productivity Commission's review.

It is recommended that the potential use of dual indices for land and other works be for indexation of contribution plans be modelled and considered as part of the NSW Productivity Commission review of contribution arrangements

A review of IPART terms of reference

The terms of reference for IPART were created when the maximum caps on infrastructure contributions rates were established. The latest amendments to IPART's terms of reference occurred in 2018. Noting that maximum caps have not applied since 2017 for the majority of areas in NSW (as these were replaced with thresholds which trigger the review process) and that contribution caps are soon to be removed altogether, the terms of reference need to be changed to reflect the present-day context and purpose of the review process.

The review of the terms of reference should aim to clarify the context of the review and streamline the process, especially for those plans which are proposing contributions rates that do not significantly exceed the threshold.

In addition, the revised terms of reference are to be narrowed as their current, open-ended wording, has meant that IPART has been required to undertake community consultation and detailed analysis of contributions plans, in instances where this is not necessary given the level of impact involved.

The recommendation to review of IPART terms of reference to align with the threshold reforms and to streamline the review process is supported

The removal of existing exemptions to the review process (i.e. 'grandfathered' contributions plans)

At present, land identified in Schedule 1 of the Ministerial Direction is not subject to the review process by virtue of the grandfathering of contributions plans which were introduced when the maximum caps on infrastructure contributions rates still applied. Schedule 1 of the Ministerial Direction applies to land in respect of which there was no cap on the amount of contributions that could be levied.

Since the thresholds have been established as triggers for the review process and the caps have been removed, Schedule 1 of the Ministerial Direction is no longer relevant, and

those contributions plans for the land identified in Schedule 1 should no longer be exempt from the new review process. By removing the exemptions, it will be clearer that the review process applies to all contributions plans that meet the review threshold triggers.

The recommendation to remove existing exemptions to the review process (i.e. ‘grandfathered’ contributions plans) is supported in part.

Grandfathered contributions plans should be scheduled for review over the next 2 years (rather than deleted), and the affected councils should be supported and adequately resourced to undertake these reviews.

The removal of the existing requirement for councils to re-exhibit an IPART reviewed contributions plan following the receipt of advice from the Minister’s nominee

At present, contributions plans can be amended to give effect to the advice of the Minister or Minister’s nominee in relation to implementing IPART recommendations, subject to the contributions plan being re-exhibited by council for a further 28-days following IPART’s review.

It is proposed that this requirement for re-exhibition is removed from the *Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)*, as this limits and disincentivise councils from making positive changes to a contributions plan in response to submissions received following the exhibition of the draft contributions plan.

The recommendation to remove the existing requirement for councils to re-exhibit an IPART reviewed contributions plan following the receipt of advice from the Minister’s nominee is supported

Connection to broader reforms

The NSW Productivity Commission’s review of the infrastructure contributions system (Part 7 of the Act) is welcomed and the outcomes of the review should be considered as part of the current contributions reforms.

A rigorous contributions framework operating in Greater Sydney should support the vision set out by A Metropolis of Three Cities, Subregional Plans, Community Strategic Plan, Local Strategic Planning Statements, Housing Strategy and Employment Strategy.

A holistic review of the infrastructure contributions system will be valuable to help coordinate how the regional and local infrastructure should be funded. Ideally this thorough review would have occurred before the individual elements of contribution settings were amended.

However, it is proposed that the key recommendations to improve processes made in *Improving of local infrastructure contributions plans discussion paper* together with our feedback proceed to implementation. The proposed changes noted are urgently required to ensure communities have the local infrastructure they need, and developments are not



unnecessarily delayed. Following the NSW Productivity Commission's review these administrative reforms could then potentially be revisited, if this is required.

Further mechanisms should be developed to allow Councils and State Agencies work collaborative within the same framework and set responsibilities to avoid the 'doubling up' of infrastructure.

Conclusion

SSROC welcomes the opportunity to make a constructive contribution to the *review Improving of local infrastructure contributions plans* and provide comments on the discussion paper.

SSROC member councils cover a large part of Greater Sydney and have a direct interest in supporting and advocating for changes to improve *local infrastructure contributions plans*. We welcome the consultation and recommend that the issues raised, and the recommendations proposed in this submission be given further consideration.

For our councils, the proposed series of improvements should result in reducing the lengthy timeframes associated with the current review system, as well as ensuring that the system is in keeping with current planning requirements and better reflecting the costs associated with local infrastructure delivery.

In order to make this submission within the timeframe for receiving comments, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed. If you have any queries please do not hesitate to contact me or Mark Nutting, SSROC's Strategic Planning Manager on 8396 3800.

Again, thank you for the opportunity to comment on the *Improving the review of local infrastructure contributions plans* - discussion paper and we are keen to participate in any further stages of a reform process, in particular consultations about any changes that will particularly impact on local councils.

Yours faithfully

A handwritten signature in black ink that reads 'Helen Sloan'.

Helen Sloan
Acting General Manager
Southern Sydney Regional Organisation of Council