



7 June 2023

Portfolio Committee No. 7 – Planning and Environment Parliament of NSW

Online submission at : <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/lodge-a-submission.aspx?pk=2962>

Re: Submission to the Inquiry into the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023

Thank you for the opportunity to provide a submission to the Inquiry into the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of twelve 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 1.8 million, one third of the population of Sydney, including Australia's most densely populated suburbs. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

Infrastructure contributions are critical elements of the policy and delivery framework that impact the provision of sustainable communities with good access to services, transport, and opportunities for employment and education, including the availability of social and affordable rental housing. Well-designed contributions frameworks can help better align infrastructure investment with development, helping to address a common concern with growth amongst existing communities and their councils.

On 10 December 2021, SSROC, in a submission to the Department of Planning and Environment, expressed its opposition to the proposed reform of Infrastructure Contributions draft Bill as the (then) reforms would have left the councils worse off. Follow-up correspondence, dated 2 March 2023, from our President, Burwood Mayor Cr John Faker, echoed these concerns and called for the release of the proposed legislation and policy settings as a matter of urgency.

SSROC welcomes the significant changes that have occurred that have led to the making of the current Bill.

1 Understanding

The Bill replaces parts of the Environmental Planning and Assessment Act 1979 to allow the Minister for Planning to impose contribution fees on development to help pay for State infrastructure.

Critically, this revised Bill does not propose to make changes to local infrastructure contributions collected by councils. This should ensure that the operation of the new Housing and Productivity Contributions (HPC) framework lessens the impact on local councils' ability to fund critical local infrastructure. SSROC welcomes the inclusion in the Bill of provisions to remove section 7.32(6) of the Environmental Planning and Assessment Act 1979.

Rather, the Bill is seeking to introduce a new, broad-based infrastructure contribution scheme, Housing and Productivity Contributions (HPCs), to replace the existing Special Infrastructure Contribution system.

The NSW Government will use the funding for State infrastructure that supports housing and productivity in high growth regions. This includes hospitals, schools, state and regional roads, transport infrastructure and measures to conserve the natural environment.

The Bill also proposes to permit the Minister to define via Ministerial Planning Orders "regions" for the purposes of ensuring that the contributions collected in a specific area are used for State infrastructure in that same region.

SSROC welcomes the provision in the Bill for up to \$1 billion in grant funding over 10 years for councils to deliver local infrastructure, such as parks and sporting facilities. Again, this funding will only be available for use in the region in which it was generated through contributions.

2 Issues and Recommendations

1 Defining "Region" around broader communities of interest

The Bill will allow Government to levy a broad-based developer charge to help meet the cost of infrastructure needed to support growing communities and maintain social licence to increase density in infill areas. HPCs imposed on development in a region must be used to provide regional infrastructure that benefits the region (Proposed section 7.24 of the EPA Act).

The definition of regions will therefore be critical to following through on an alignment of expenditure with regional growth. Social licence is very important to increasing density by means of infill, yet is an important enabler for development processes. If infrastructure is not well linked to the place where growth is occurring that social licence will be lost.

SSROC advocates for the contributions to be reinvested in accordance with the priorities of the local government area in which the development is located. SSROC proposes that the six cities (e.g., the Eastern Harbour City, Central River City, etc) be used to define regions' boundaries, rather than the single Greater Sydney region as illustrated in the Department's explanatory document *Housing and Productivity Contribution*, May 2023, page 5.

The adoption of the three Cities of Greater Sydney as regions for the HPC will be important to closely align Greater Cities Commission strategic planning and new growth targets, with the state and regional infrastructure needed to accompany this level of urban renewal. Genuine participation by councils in decision-making related to the investment of HPC will be essential to mitigate the impacts of loss of control over infrastructure provision locally, and loss of social licence for infill development.

Furthermore, to ensure consistency and minimise uncertainty, Government policies will need to clearly commit to consulting Councils on the setting of, and any changes to, the HPC regions.

Consideration should also be given to better integrating and strengthening the proposed legislation with Part 3 of the Environmental Planning and Assessment Act 1979 to ensure that it is appropriate and complementary to the established regional and City/District planning frameworks. This level of specificity will ensure the State's infrastructure planning and delivery priorities will be co-ordinated alongside the planning priorities outlined in the new GCC Region and City Plans.

2 Affordable rental housing as critical regional and local infrastructure

The NSW Planning Minister, in his second reading speech, acknowledged the overwhelming forecast infrastructure needs, and the funding gap and budget challenges of meeting vital



infrastructure so that people moving into a new home are also moving into a well-connected community. HPC, while eventually raising \$700 million annually across the growth regions, will need to sit alongside other important government revenue streams to fund schools, hospitals and roads and public transport and other State infrastructure.

Affordable Housing supply is critical to attracting workers and investment and therefore to NSW's productivity. Infrastructure NSW notes that "Access to affordable and quality housing is a key enabler for prosperous and thriving communities. Workers often avoid accepting employment in areas where appropriate housing is unavailable. This can disrupt business activity and the provision of critical frontline public services like policing, health and education. This poses a risk to NSW agencies' goals of providing equity of access to services regardless of location"¹.

SSROC therefore welcomes the acknowledgement of, and support for, affordable rental housing as regional infrastructure within the Bill while ensuring the continued capacity for councils to develop local affordable housing contribution schemes. The setting of feasible Housing and Productivity Contribution rates need to take care to ensure that there is capacity to also raise local affordable housing contributions from developers as a community infrastructure priority alongside other local and State infrastructure needs.

3 Transparency of HPC expenditure through auditable delivery plans

The Department of Planning and Environment's explanatory document for the reforms advises that councils will be involved in the development of "Infrastructure Opportunities Plans" that will outline the "long list" of infrastructure required to support housing and productivity growth in the identified regions.

The plans will be developed through an Urban Development Program coordinated by the department that includes state agencies, councils and industry, drawing from strategic planning.

The Urban Development Program will provide forums for stakeholders to discuss the growth challenges for the regions where the Housing and Productivity Contribution will apply. The opportunity for councils to input to this process is welcomed and we look forward to understanding more details about how this will work in practice. However, to maintain the social viability of development, councils' role should be one of active participation rather than an opportunity to input, and that partnership needs to extend across the whole process of investment decision-making, not just the "Infrastructure Opportunities Plan" stage.

To maintain public confidence, it will be important that infrastructure delivery plans are developed and annually reported on to transparently account for funds allocation and expenditure of HPCs to specific placed-based infrastructure projects from the Housing and Productivity Fund. See recommendation 3 below.

The provision of GCC City and Region based HPC Delivery Plans and reports will need to contain current information about HPC revenue collected, expenditure and commitments that includes a breakdown by LGA, where appropriate. This will enable local councils to take an informed role in decision-making on where and how HPC funds to align with growth targets timely infrastructure delivery.

¹ Infrastructure NSW, May 2022, *State Infrastructure Strategy 2022-2042: Staying Ahead*
<https://www.infrastructure.nsw.gov.au/media/3706/state-infrastructure-strategy-2022-2042-full-report-print-friendly-version.pdf>

Such reporting will be critical and foundational to developing a shared infrastructure framework that accommodates both local and State priorities as far as possible, and which ensures that the priorities remain contemporary over time. It will be important for making the development of Infrastructure Opportunity Plans meaningful and relevant to councils.

4 Ensuring Local Government is a genuine partner at the regional level

To ensure consistency and minimise uncertainty, Government policies and governance measures need to clearly articulate how Councils will be consulted and engaged on key matters including:

- the setting of and any changes to regions.
- development of “Infrastructure Opportunities Plans”.
- regional infrastructure prioritisation and investment decision-making.
- the way grant payments are made to a council for the council to provide the regional infrastructure like parks and open space (proposed section 7.24 (3) of the EPA Act). The selection criteria and process for grant funding of councils to deliver local infrastructure, such as regional parks and sporting facilities will be especially important.
- negotiations with developers regarding offers made to the State Government in lieu of state infrastructure payments that also affect council levies.

For the HPC to provide a reliable and predictable source of public revenue, it will require a robust and transparent governance framework and avoid the design errors of the State Waste Levy that currently short-changes councils and fails to give communities confidence in focused and more transparent decision-making at the regional delivery level.

Councils advise that it is currently commonplace for major developments to request consent authorities (other than a council) to reduce or remove the requirement to provide local infrastructure contributions where State Planning Agreements occur. Such requests are often granted given s7.13 of the EP&A Act requires only that consent authorities to have regards to any contribution plan but is not required to impose s7.11 or 7.12 levies in accordance with the relevant policy.

5 Transitioning SIC funds already in the system

Subdivisions 4 and 5 of Division 7.1 of the EPA Act currently provide for special infrastructure contributions (SICs) and related matters. The Bill substitutes Subdivisions 4 and 5 to establish the new HPC scheme.

The Bill contains savings and transitional provisions for the continuation of SICs determined under the EPA Act before the introduction of the new HPC scheme. (see substituted Schedule 4 of the EPA Act).

Further advice is required about the money and its application already collected under the SICs before the legislation changes. The Departmental advice covers the transitional arrangements at a high level. Detailed briefings are requested for the affected councils.

3 Summary of Recommendations:

SSROC recommends that:

1. Contributions be reinvested in accordance with the priorities of the local government area in which the development is located, in partnership with the relevant council.
2. The three Greater Sydney City regions, namely Eastern Harbour City, Central River City and the Western Parkland City be used to define the contribution areas in the Ministerial Orders.
3. The setting of feasible Housing and Productivity Contribution rates must ensure that there is capacity to also raise local affordable housing contributions.
4. Annual infrastructure delivery plans are developed, published and reported on that transparently account for the allocation and application of HPCs to specific placed-based infrastructure projects.
5. Government policies and governance measures are co-designed with councils to ensure Local Government is a genuine partner at the regional delivery level.
6. Amend the proposed legislation as necessary to enable local councils to be included in negotiations with developers regarding offers made to the State government in lieu of state infrastructure payments.

Conclusion

Thank you for the opportunity to provide a submission to the Inquiry into the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023.

SSROC member councils cover a large portion of Greater Sydney and have a direct interest in supporting and advocating for changes to improve and sustain place-making and deliver higher residential amenity. Councils play a vital role in delivering infrastructure for their local communities as they grow.

In order to make this submission within the prescribed very short timeframe, 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 Strategic Planning Manager on 8396 3800.

SSROC looks forward to participating in further consultations especially related to:

- council participation in decision-making,
- addressing local infrastructure priorities, and
- defining “regions” so that contributions collected in a specific area are used for State infrastructure in the same area.

Yours faithfully



Helen Sloan
Chief Executive Officer
Southern Sydney Regional Organisation of Councils