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Contact Fiona Towers

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7 June 2023

Ms Sue Higginson
Committee Chair
Portfolio Committee 7 – Planning and Environment,
Parliament House,
Macquarie Street, Sydney NSW 2000

via email

Dear Ms Higginson

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 Bill.

IPART is an independent, strategic agency of NSW Government, charged with regulating key markets and government services to ensure effective social, environmental, and economic outcomes. Among other roles, we are the independent pricing regulator in NSW for water and local government, and the market monitor for biodiversity.

We have assessed local infrastructure contributions plans since 2011 under terms of reference from the Premier and in accordance with the Ministerial direction and the Practice Note issued by the Department of Planning and Environment. To date, we have completed 28 reviews of 16 different contributions plans from eight councils and have seven current assessments.

In 2020 we provided a submission to the Productivity Commissioner's review of infrastructure contributions in NSW identifying several opportunities for improvements to the contributions system including:

- Application of our funding hierarchy to guide cost allocation –in most instances 'impactors' should pay (ie, those that create the need to incur a cost should pay the cost)
- Early acquisition of land for public infrastructure
- Timely delivery of infrastructure to facilitate and service development
- Regular review of contributions plans
- Protecting minimum standards for all communities in NSW, while allowing flexibility to exceed these standards where there is a willingness to pay
- Increased transparency
- External review of contributions plans only on an exception basis, where there are unresolved material issues or concerns identified by the affected parties.

The full submission is available on our [website](#).

Two of the Productivity Commissioner's recommendations were referred to IPART for further analysis. In 2022 we completed a review of the local infrastructure system in response to two recommendations¹ of the Productivity Commissioner's review of infrastructure contributions in New South Wales.

We have been asked to monitor the performance of, and competition in, the biodiversity credits market, within the Biodiversity Offsets Scheme, over a 3-year period. In December 2023, we will publish our first Annual Report covering the market's operation over the 2022-23 financial year.

Our review will make findings and recommendations to maintain and promote competition in the biodiversity credits market, identify opportunities to improve efficiency and address market failure, and address the interests of existing and potential market participants to support fair trading. We will not be reviewing the biodiversity certification process or conservation measures outside the Biodiversity Offset Scheme.

Based on our work in local infrastructure contributions, we consider that the contributions system should be principles based and should reflect the reasonable costs of infrastructure provision. A principles-based approach to contributions allows infrastructure to be tailored to the needs of the local communities.

Cost reflective contributions promote efficiency and equity and should be a key objective of any contributions system.

Cost reflective contributions:

- Signal the costs of developing different areas and assists in facilitating development where the benefits of development outweigh the costs.
- Ensure there are sufficient funds to deliver the necessary infrastructure
- Ensure that impactors are paying the costs of providing infrastructure and minimise the risk that other parties must fund any shortfall between of actual costs of providing the infrastructure.

We consider efficiency of the overall system an important objective, however we note that achieving estimates of efficient contributions within a contributions plan can be difficult to achieve due to long lead times between planning infrastructure and detailed site-specific estimates.

In recent years rapid rates of change in the cost of land, construction materials and labour have impacted the accuracy of early estimates. We therefore consider it more appropriate to require contributions plans to reflect a reasonable cost estimate of infrastructure and be subject to regular review.

We have not been involved in the development of the bill and have not reviewed the changes in depth.

Reviews of the contributions system should aim to achieve consistency between state and local contributions frameworks.

This will help promote efficient and equitable delivery of infrastructure to service growth as it occurs. We would welcome the opportunity to be involved in further reforms of the contributions system.

¹ Recommendations 4.5 and 4.6 of the Productivity Commissioner's review recommended that local infrastructure contributions plans use benchmarked costs and contributions plans reflect development-contingent costs.

IPART's contact officer for this matter is Fiona Towers, Executive Director, Pricing and Policy, contactable on [REDACTED]

Yours sincerely

7/06/2023

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Signed by: Andrew Nicholls

Andrew Nicholls PSM
Chief Executive Officer