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Ms Kate Speare
Director - Infrastructure Funding Policy
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

online submission at: https://www.planningportal.nsw.gov.au/local-contributions

(copy to)

IPART [redacted]
PO Box K35
Haymarket Post Shop
NSW 1240

online submission at : https://www.ipart.nsw.gov.au/Home/Reviews/Lodge-a-submission?openforms_id=922debf9-0915-463b-bee1-55ae0c82f644&timeline_id=13542&cta_type=have_your_say
ipart@ipart.nsw.gov.au

Dear Ms Speare

RE: Development Contributions Reform – Draft Technical Submission

Sutherland Shire Council welcomed the Minister for Planning and Public Spaces' commitment to consult further with local government on the proposed reforms to the planning framework for Development Contributions. The commitments made by the Minister in his correspondence to councils and within his press releases gave Sutherland Shire Council some comfort that it would continue to be able to fund much needed local infrastructure into the future. However, working through the details of the further information released for comment, it is Council's view that this is unlikely to be the case.

The Minister's broader priorities to make great places are fully supported by Sutherland Shire Council. However, this can only be achieved when there is appropriate funding to the support significant investment in public spaces that is needed to accommodate growth. The reforms will ultimately make it harder for councils to deliver the infrastructure our community needs. Council's key concerns with the latest exhibited amendments are summarised below.

1. The essential works list will jeopardise Councils' ability to meet the State's liveability principles

Sutherland Shire has two centres designated as strategic centres by the South District Plan. Council's Local Strategic Planning Statement aims to focus economic and housing growth within these centres. This is being advanced through its Housing Strategy and Centre Precinct Plans both in development. Consistent with the Principles of the Region Plan and the South District Plan, Council is committed to enhancing the liveability and amenity of its centres so that they are great places to live, visit and do business, however, this requires land to be purchased for open space and investment in the public domain.

The District Plan and the Design and Place SEPP both set a high standard for open space provision in centres – residents are required to have access to open space within 5 minutes' walk (400m). Land in the strategic centre of Miranda was an average $1.230 million per residential lot (650m^2) in 2020 or approximately $2,000 per square metre (land value would be significantly higher for centrally located commercially zoned lots). Given that the design standard for a local park set by the SEPP is 4,500 per square metres, this equates to a value of $9 million for the land component of a local park. This would require 750 dwellings providing the maximum contribution of $12,000 each plus embellishment costs. Creating capacity for 750 new dwellings within 400 metres of a park in an established centre is clearly ambitious and unlikely to be realistic.

Council will not be able to meet the liveability principles to which the State aspires unless it is able to recoup the true cost of infrastructure needed to support growing communities.

2. The Essential Works List effectively limits S7.11 plans to greenfield development

The limitations imposed by the Essential Works List (EWL) and efficient infrastructure costs will force councils to rely on a S7.12 plan for existing centres because the nature of the infrastructure needed by growing communities is not meet by the EWL, and the standard of infrastructure demanded exceeds base level provision.

Council currently imposes a S7.11 contribution of $20,000 per residential flat in its centres to help fund open space acquisition and amenity improvements. Moving to a S7.12 plan will see contributions fall to $12,000 per unit. Based on development applications from 1 January 2020 to date, this would result in a loss in funding of approximately $800,000 per year.

3. The new contributions framework moves the burden on infrastructure provision from bigger developers to 'mums and dads'

The contribution framework in Sutherland Shire captures residential flat buildings within a S7.11 Plan with a contribution of $20,000 per unit, while infill development in low density neighbourhoods incurs a 1% levy under the S7.12 plan. The $20,000 S7.11 contribution has been accepted by the local development industry and given that 3,277 residential flats have been delivered over the last 3 years, the contribution is clearly not undermining feasibility. While the 1% levy on small scale development is often argued by some home owners, it is generally accepted, however, the reforms redirect the burden of contributions from large scale developers to small scale operators and home owners.

The new contributions framework imposes greatest tax on families and small-scale developers because the greatest percentage increases are imposed on 'knock down rebuilds' and dual occupancy, while the burden placed on residential flats is substantially reduced. The average cost of new home in Sutherland Shire is $742,000 which currently results in a contribution of $7,420. Taking this to $12,000 represents a 61.8% increase. The average cost of a dual occupancy is $450,000 per dwelling which currently generates a $4,500 contribution. Taking this to $12,000 per dwelling represents a 166% increase. In comparison, developers of residential flats would receive a 40% reduction in contribution rates as they fall from $20,000 to $12,000.

4. The introduction of Regional Infrastructure Contributions will be at the expense of local contributions

IPART's analysis and recommendations are based on preserving the feasibility of development, however, the analysis is based on the RICs being imposed. It is unsurprising that local contributions have been decreased when the State intends to impose its own contribution of $12,000 per dwelling. The Atlas Urban Economic study noted that '*the proposed 7.12 rates (in and of themselves) result in marginal impact to feasibility. If, however, implemented together with a RIC charge and water charges there can be substantial impact to feasibility'* (page iii).

Together the RIC and the S7.12 levy will constitute an unreasonable tax on the average person. If both the RIC and the S7.12 are set at $12,000 a dwelling, the total contribution of $24,000 would represent a tax of 3.2% on the construction of an average knock down rebuild in Sutherland Shire. Local Councillors are in touch with their local communities and will understand that the contribution burden is too great for the average person looking to build a new home. Persisting with such a high levy is likely to result in political pressure that will force a back down by either local or state government. If this occurs at a local level, contribution income will fall far short of the current funding stream.

5. The evidence before DPIE and IPART shows Sutherland Shire will be worse off under the reforms

The following extract from the Minister's press release on 24 [redacted]vember 2021 gives further commitments:

"The changes we're making will build a simple, fair, consistent and clear system for delivering infrastructure to support more homes and jobs across the State," Mr Stokes said. "I said that no council will be worse off under these reforms and we will continue to work with LGNSW and councils to make sure that happens". "We all want the same thing – great infrastructure and more investment in our local communities. That's what these reforms will deliver."

Despite the Minister's commitment that no council would be worse off under the reforms, Figures 3-3 and 3-4 on page 15 of the DPIE exhibited study 'Review of Charging Methodology' carried out by Atlas Urban Economics (Appendix A to the Explanatory Paper) clearly shows the anticipated impact on Sutherland Shire. This figure is copied below:

Extract: *Table 3-3: Historical Contributions v Proposed/ Target s7.12 Rates on Dwelling Completions and Building Approvals*

Local Government	**Avg. Historical Contributions (FY2017-20)**	**Proposed s7.12 x Net Dwelling Completions (FY2017-20)**	**Area 1% x Avg. Value Non-residential Building Approvals (FY2017-20)***
Sutherland	$15,553,250	**$5,584,500**	$7,182,708

Extract: *Table 3-4: Historical Contributions v Application of Proposed/ Target s7.12 Residential Rates (FY2017 to FY2020)*

Local Government	**Avg. Historical Contributions (FY2017-20)**	**3% x Avg. Value of Residential Building Approvals***	**Proposed s7.12 x Net Dwelling Completions (FY2017-20)**
Sutherland	$15,553,250	$21,571,133	**$5,584,500**

Table 3-3 and Table 3-4 both indicate that the contribution rates proposed by the reforms or a 3% contribution will, in Sutherland Shire, be lower than average historical contributions.

The result of this decrease in contributions revenue will require Council to fund the construction of new infrastructure with general revenue which has previously been allocated to infrastructure renewal. This reduction in renewal investment will result in an increase in infrastructure renewal backlog which it has worked at eliminating.

6. The “efficient infrastructure costs” reflect green field practice and are not realistic for established areas.

The “efficient infrastructure costs” proposed are closely aligned to industry accepted rates, however, they underestimate the complexity of delivering infrastructure within established urban areas. Clearly, land availability is the critical issue facing councils in established areas who are trying to meet growing demands for recreational opportunities generated by new development. Most councils are forced to redevelop existing assets to achieve greater carrying capacity, however, this entails more complex design, approval and construction methodologies than assumed – all of which result in increased delivery costs. At a minimum, the costs recovered through contributions should extend to the costs associated with design, planning approval and project management.

Given the time allowed for submissions, Sutherland Shire Co[redacted]cil has not been able to compare estimated costs against its experience of actual delivery costs across the full range of infrastructure. This work is still in progress and will be provided at a later date.

However, the estimated costs of public toilets shows that the rates do not adequately account for the need to demolish existing structures, reconfigure services, or rehabilitate land for the new facility to be built. The rates appear lower than published industry rates, especially once we account for whole of project costs, namely those associated with planning approval, design and project management which are all required capital costs

In terms of open space assets, our review has found the rates were well below costs incurred by Council when getting quotes from the market, particularly:

- Demolition – The rates are clearly lower than Sutherland Shire’s experience. When checked against Cordell published market rates, the proposed rates are in some cases half of that published by Cordell.
- Playing fields – The rates are substantially below those experienced by Sutherland Shire Council. Quotes can be provided to demonstrate the gap if required. It also appears that the proposed rates exclude land formation costs, irrigation and drainage, and capital costs for construction.
- Lighting – The rates are lower than we experience particularly due to planning, design and project management costs.

7. The “per bedroom” rate for alterations and additions is simply naïve.

Seventy six percent (76%) of development applications relating to single dwellings in Sutherland Shire are for alterations and additions. Under the draft reforms these applications will no longer pay a 1% levy and instead have contributions set at $5,000 per additional bedroom. This approach will be problematic as designers and developers will soon work out that rooms simply need another label to avoid a contribution. Unless a bedroom is defined as “as a room capable of being used as a bedroom”, applicants will simply label plans with studies, media rooms, workshops, gyms etc.

Based on development applications from 1 January 2020 to date, this change is likely to result in a loss in contribution income of at least $1m per year (this does not account for further lost contribution income as a result of complying development certificates).

8. Contributions will not reflect 3% of Development Costs

On 27 October 2021 the Minister made a commitment to councils that rates for s7.12 levies will be increased to represent the true 3% construction costs for residential development and 1% for commercial development. However, much of the residential development in the Shire has an estimated cost greater than $400,000 per dwelling (the point at which a 3% contribution = $12,000).

Based on development applications from 1 January 2020 to date, new dwellings have an average construction cost of $712,000. Dual occupancy development averages $900,000 per development ($450,000 per dwelling). Council can only levy for the net increase, hence the first 'new' dwelling will not be levied. Consequently, the assertion by the reforms that the new s7.12 rates are equivalent to 3% of construction costs is disputed in Sutherland Shire.

The DPIE exhibited a study 'Review of Charging Methodology' carried out by Atlas Urban Economics (Appendix A to the Explanatory Paper) concurrently with these reforms which concurs with this finding. While the proposed s7.12 framework targets a higher cost of development (3% cost of residential construction costs and 1% cost of non-residential construction costs), the proposed s7.12 rates do not necessa[redacted] align with the target percentage rates (see page 29). The study concludes – '*Furthermore, s7.12 residential rates that are lower than the 3% targeted exacerbate the adverse financial implications'* (page 29).

Unfortunately, the study aggregates Sydney data in to 'Eastern City', 'Western City' and 'Central City'. It notes that dwelling construction rates in the Eastern City are upwards of $450,000 to $600,000 per dwelling and even higher where houses are high specification. Whereas it is $300,000 to $450,000 per dwelling in the Central City and Western City. A brief analysis of recent dwelling costs in the Shire indicates that average construction costs are higher than in the central or western city. Recent DAs for flats which are largely occurring in the eastern part of the Shire indicate construction costs in excess of $700,000 per unit. Accordingly, it is unclear why the Shire has been included in the 'Central City' when recent costs align more closely with the 'Eastern City' where contribution rates are proposed to be higher.

While it is agreed that higher construction costs (which factor in 'luxury' inclusions) do not necessarily align with a higher demand for infrastructure, they are an indication of the higher expectations for standards of facilities. As a result, Table 3-3 (page 15) also indicates that the residential contribution rates in Sutherland Shire will be lower than average historical contributions.

The study noted some shortcomings of the proposed rates. It is noted that at present contributions are payable on alterations and additions. In 'high value' areas this type of development is *commonplace and facilitate an intensification of the use* (page 15). Again, as noted in the Study 'Summary of Findings' (page 29), the proposed rates only apply to additions and ignore intensification of use, accordingly this is likely to *affect the quantum of contributions collected in some areas*. This is true in Sutherland Shire where many residential, commercial and industrial applications are for alterations and additions. It is agreed that there will be a resultant reduction in contribution income.

Fittingly, the study concluded that the adoption of Regional rates will not fit all (page 37). Sutherland Shire clearly loses by this approach.

9. The RIC will not necessarily address local infrastructure needs

On 27 October 2021 the Minister made a commitment that there will be no reduction in local contributions due to the new regional infrastructure contributions and the contributions will be spent in the region where they are collected. This commitment was welcomed by Sutherland

Shire, however, it is now apparent that the guidelines define “region” for the purpose of this commitment. Greater Sydney is to comprise only two regions under the guidelines - which means that there is no commitment to use locally collected RIC to meet local needs. Infrastructure capacity must align with local growth.

It is unclear how funds will be allocated and whether councils will have any representation in decision making. At the very least the Regions should align with the Districts used by the Greater Sydney Commission for regional planning.

10. Standardise Exemptions

The reforms propose simplifying and standardising exemptions (Explanatory Paper page 15). It is considered that the proposed exemptions for ‘community housing providers’ who provide self-contained seniors housing is not appropriate because it typically operates on the same business model as the private sector. Exemptions should be limited to accommodation that is either ‘social housing’ or ‘affordable housing’.

If you require any further information in relation to the issues raised in this submission, please contact Mark Carlon, Manager Strategic Planning on [redacted] or email [redacted]

Yours sincerely,

[redacted]

Andrew Carfield
Director Shire Planning