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Dear Sir/Madam

Submission – Review of Infrastructure Contributions in New South Wales

Thank you for the opportunity to make a submission to the Review of Infrastructure Contributions. Queanbeyan-Palerang Regional Council's submission follows.

Issue 1.1: Striking the right balance

The current system for provision of public infrastructure is complex, time consuming, resource hungry and expensive to implement/alter and often doesn't deliver a mechanism which covers actual costs of providing public infrastructure or delivers it in a timely manner.

Councils also differ in their approach to sourcing funding and delivering infrastructure through development. Queanbeyan-Palerang Regional Council (QPRC) for example, considers the cost of delivery of new or enhanced infrastructure should be designed by the proponent, endorsed by Council, checked for network compatibility, and largely borne by the development and encapsulated through planning agreements. Other councils are prepared to share the cost between developers and council to encourage development.

In that context, the comments made in this submission have had regard to the goal of the Review which is a set of recommendations that will:

- fund the infrastructure needed to support our growing communities
- lead to an infrastructure contributions system this is simple to understand, transparent and principles-based
- meet the objectives of certainty and efficiency to support our stakeholders and boost investment in New South Wales.

One model that could be explored which meets the above goals and is loosely based on the West Australian model would consist of:

- requiring essential works (land for open space - such as parks and sporting facilities including base level embellishment; land for community services - such as childcare centres and libraries; land and facilities for transport - such as road works, traffic management and pedestrian and cyclist facilities; land and facilities for stormwater management; and the costs of plan preparation and administration of land) should be prescribed to required standards and time of delivery for all development and subdivisions of a stipulated size in an urban release area or assessed to have a prescribed impact on the required infrastructure needs for the area in an infill situation - as a condition of development.
- Councils establish minimum or performance design standards for those essential works, stepped to higher thresholds pending the yield generated or load imposed by the new development

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- Councils then differentiate those thresholds for urban release areas v infill developments.
- Anything above essential works would be subject to a section 7.11 plan (i.e. shared costs between this and future developments) or a planning agreement (i.e. full cost of this development).

The content of any section 7.11 plan would also be mandated by an appropriate Ministerial Direction and any planning agreement would be drafted to reflect a Council's planning agreement policy which would include minimum requirements also mandated by a Ministerial Direction and would have been subject to community scrutiny.

A similar approach should apply for sewer, water and stormwater developer charges often referred to as section 64 contributions after the relevant section of the *Local Government Act 1993*.

In part this approach already exists for sewer, water and stormwater developer charges as there are mandatory guidelines for the calculation of them and largely influences the content of documents known as developer services plans for these type of charges. These are guidelines issued by the Minister, are called the 2016 *Developer Charges Guidelines for Water Supply, Sewerage and Stormwater* and are issued in accordance with section 306 (3) of the *Water Management Act 2000*.

QPRC has recently adopted two development services plans which were drafted in accordance these guidelines. Overall the application of them was considered reasonable although it was also noted that they were resource intensive, time consuming and expensive to apply. It was also felt that the community consultation requirements for developer services plans could be reduced.

Issue 2.1: Enable a broader revenue source for the funding of infrastructure

In the case of developer contributions it is suggested that as many councils are unable to renew/replace existing infrastructure, existing sections 94/64 contributions be pooled for funding of broad classes of infrastructure (roads, paths, buildings, pump stations, reservoirs), nominated in asset management plans and ring-fenced in financial plans and delivery programs, in the localities and categories contained in the rate category framework.

In regard to the newer section 7.11 contributions it is suggested that these be combined with a broader (higher percentage) section 7.12 charges and used for renewal and enhancements of existing assets.

In the case of local planning agreements (LPA) it is suggested that these could be used to fund new or expanded assets.

In the case of rates and annual charges (water, sewer, waste, stormwater) it is recommended that rates and annual charges be reframed so that:

- The ad valorem charge (based on land value) covers more than a 10 year planning horizon (nett of grants and contributions) and it also cover:
 - The maintenance and renewal of infrastructure.

- Debt servicing for new or replacement infrastructure.
- There be a base charge (equal charge per rate category per locality) and it cover:
 - The cost (nett of fees and grants) of Community Service Obligation services (e.g. library, pools).
- Rates generated by growth in new properties (by subdivision) should cover the 10 year asset maintenance/renewal horizon for the new assets as well as any required extension of services for the new rate payers.

Issue 2.2: Integrating land use and infrastructure planning

As a general approach Local Strategic Planning Statements (LSPS) could be used to better integrate land use and infrastructure planning in the following manner:

- The LSPS sets the vision and infrastructure (site, scale, scope) for each locality.
- Development Contribution Plans establish the thresholds and triggers for that scale (and subsequent contributions).
- Asset management plans (AMP) sets the schedule for roll out and maintenance of that infrastructure.
- Financial plans (LTFP) reflects the broad estimates for that roll out.
- Rate pricing policy is designed to recover that cost (see 2.1).
- Planning agreements and anticipated funding may be used as co-contributions to growing local economies (GLEs) and other government grants for infrastructure.

To properly integrate land use and infrastructure planning there must also be certainty of contributions for the delivery of infrastructure.

This is more of a challenge when section 7.11 plans are used to provide public infrastructure than when planning agreements are used. This is because it is difficult to plan for anything other than essential infrastructure as contributions collected through this means are dependent on the rate of development and available contributions tend to be generally behind the need for them as, even when indexed, they don't keep up with the increases in the cost of infrastructure. Consequently they tend to need subsidising from other sources such as grants or general revenue.

QPRC's experience is that planning agreements are able to better integrate land use and infrastructure planning. One example is the Jerrabomberra Innovation Precinct Planning Agreement which has been able to use to unlock land to provide access and the necessary infrastructure to a new high tech business park, innovation hub, intermodal site, new high school, regional sports facility and an urban release area of 1,500 residential dwellings. This planning agreement was also used to provide land for an innovation hub, intermodal site and regional sports facility and as well to provide the necessary service infrastructure up the boundaries of these sites.

Issue 3.1: Principles for planning agreements are non-binding

QPRC have considerable experience with planning agreements particularly those applying to large urban release areas and have found that they do add value. This includes one for the Gogong urban release area which will have at completion 6,190 residential dwellings, a central commercial area, four neighbourhood centres and a range of recreational/open space and community facilities as well as contributions for hard

infrastructure (such as roads) both internally and externally. In total it has resulted in contributions amounting to nearly \$337M. Under the current system this may not have been achievable through a section 7.11 plan although it would have certainly required referral to the IPART and the time required and uncertainty of doing this.

Each Council/government agency should have policy or guidelines which has been subject to public scrutiny and clearly identifies when a council/agency will pursue a planning agreement and the type of infrastructure that will be included in it.

Queanbeyan-Palerang Regional Council (QPRC) supports the concept of having clear guidelines around the development and implementation of planning agreements in NSW. In many respects there has been limited information available in the past around the preferred procedures for developing these agreements and the scope of matters they can include. Giving legislative support to these guidelines by way of a Ministerial Direction under section 7.9 of the *Environmental Planning & Assessment Act, 1979* is also supported.

QPRC would suggest that there is greater potential for consistent application of planning agreements by councils throughout NSW if the Department continues to develop common policies and practice notes in respect of the use of these agreements. Section 2.6 of a recently released draft Practice Note encourages councils to develop their own policies and procedures around the development and implementation of planning agreements. These matters are best collectively addressed by the Department in the final Practice Note to ensure consistency and accountability across the State.

Council is of the view it would be of benefit to council staff, the community and industry if the Department were to prepare appropriate guidance and examples of effective management, implementation and administration processes for planning agreements. The determination and management of contributions payable for subdivision stages under some of QPRC's planning agreements is often time consuming and complicated.

Overall it is felt that in any reformed contribution system that planning agreements should be retained albeit with the changes to this process outlined above.

Issue 3.2: Transparency and accountability for planning agreements are low

A possible solution that any reformed infrastructure contribution system should consider is as outlined in 3.1 above.

Notwithstanding this the experience of QPRC is that planning agreements have been generally well accepted by the community and the development industry.

Issue 3.3: Planning agreements are resource intensive

Planning agreements are resource intensive and also expensive in terms of legal input. However against this it is considered that their benefits in terms of timely delivery of infrastructure and proper integration of land use planning and infrastructure planning outweigh their resource requirements and cost.

One solution to reducing the resources and cost required would be to allow minor variations to executed planning agreements e.g. updated contribution values, minor changes to provisions to occur without Deeds of Variation and community consultation.

The particular circumstances where these could occur could be identified in the policy/guidelines referred in 3.1 above.

Issue 3.4: Contributions plans are complex and costly to administer

Section 7.11 plans are complex and costly to administer but section 7.12 plans less so. If retained one way to simplify them would be to remove essential works from them (as proposed in 1.1 above) and to mandate their content through guidelines/policy given effect through a Ministerial Direction which is not dissimilar to the Western Australian model. The reformed system should also retain the ability to adjust contribution rates and other minor changes without community consultation.

Contribution plans should also be allowed to use realistic indexes e.g. Road construction and maintenance price index, a producer's price index in order to adjust contributions by realistic increases in the cost of inputs for infrastructure.

Similar indices should be used for rate caps.

Issue 3.5: Timing of payment of contributions and delivery of infrastructure does not align

Queanbeyan-Palerang Regional Council's view is that for building work developer contributions should be paid prior to the issuance of a construction certificate. To leave payment to occupation certificate stage becomes too much of a risk and potential cost to council in the event that one isn't applied for.

For subdivision works developer contributions should be paid prior to the issuance of a subdivision certificate.

Issue 3.6: Infrastructure costs and contributions rates are rising

This is agreed with. It also supports the suggestion in 3.4 above that contribution plans be allowed to use realistic indexes e.g. Road construction and maintenance price index, a producer's price index in order to adjust contributions by realistic increases in the cost of materials used for infrastructure.

If the current system is retained one way of recognising this is to support the concept of revising the current monetary thresholds on developer contributions. As a large regional council experiencing significant growth, Council is acutely aware that these thresholds fundamentally restrict the provision of basic essential infrastructure to support development in urban release sites. Further, the current requirement to seek the DPIE's approval to lift the thresholds under the applicable Ministerial Direction from \$20,000 per lot/dwelling to \$30,000 per lot/dwelling for urban release sites usually adds at least 12 months to the process, even before the Council could contemplate requesting a further review from IPART.

Council's experience having regard to recently adopted contribution plans is that actual infrastructure costs for urban release development are in the vicinity of \$40,000 per lot/dwelling in its local area – this in part may be driven by similar costs in the ACT. In that circumstance, infrastructure costs should be modelled on ACT, rather than NSW indices as a cross border initiative.

Queanbeyan-Palerang Regional Council's view is that the most efficient and equitable approach in respect of adjusting the thresholds would be to adopt Option 2 of the recent DPIE discussion paper to increase thresholds to \$35,000 per lot/dwelling and \$45,000 per lot/dwelling in urban release areas. Further, that there should be no DPIE review process to subsequently request the thresholds be increased from \$35,000 to \$45,000 for urban release areas, but rather, this be determined by whether the land is identified as an urban release area under Part 6 of the applicable local environmental plan (LEP). Where a contribution plan applies to land identified as an urban release area under the LEP the threshold of \$45,000 per lot/dwelling should automatically apply. This ensures that the DPIE still has oversight of where these increased thresholds are being sought.

Another means to address this is the proposal in 2.1 to enable use of existing section 94/64 funds as a 'catch up' to renew existing infrastructure.

Issue 3.7: The maximum s7.12 rate is low but balanced with low need for nexus

This is also agreed to. In the case of these types of plans Council recently adopted a new section 7.12 plan for the existing urban area of Queanbeyan.

In general it is seen as a simple and equitable approach to collect contributions as well as being relatively simple process to administer (relative to a section 7.11 contribution plan). However Council notes that the fixed percentage levy of 1% of the value of development is unlikely cover the full cost of providing any subsequent infrastructure if needed and so should be increased as a soon as possible.

If section 7.12 plans remain Council's should be permitted (subject to DPIE guidelines including community consultation requirements) to charge up to 5% of construction costs without IPART approval given that most contribution plans charge 7-8% as indicated in the Issues Paper.

Charges above 5% may then be delivered in conjunction with rating SRV applications to IPART (should rate pegging remain).

Specific plans (e.g. car parking) should not be captured in section 7.12 plans.

It is argued that the above measures better reflect increases in the actual costs of delivering infrastructure and remove some of the impetus for Council's to rely on section 7.11 plans or planning agreements.

Issue 3.9: Difficulty funding biodiversity through special infrastructure contributions

The mismatch in calculation and subsequent monetary value of offsets under Commonwealth and NSW legislation makes funding biodiversity problematic. This needs to be reviewed and if possible resolved.

Should extant vegetation or ecosystems exist across borders, they should be capable of acquisition (and contribution) between say NSW and ACT.

Issue 4.1: Sharing land value uplift

This should be examined in conjunction with the IPART rating review and potential movements from unimproved to capital values for rating purposes. In that context, should regional areas be unable to apply the capital value rating system, then a betterment or uplift contribution calculation, or a specific rating by locality to capture that value uplift, should be explored.

Issue 4.3: Land acquisition for public infrastructure purposes

Led by the Local Strategic Planning Statements (LSPSs) and the principal local environmental plan (LEPs), future acquisitions of open space, transport corridors and utility easements should be capable of identification, and in turn included in schedules in contribution plans or be acquired through planning agreements.

Issue 4.4: Keeping up with property escalation

Rather than annual indexation, values could be escalated in line with average property movements on 3 yearly cycles associated with Valuer-General reviews of properties for rating purposes – then captured in updated contribution plans and/or planning agreements.

Issue 4.5: Corridor protection

In relation to corridor protection to infrastructure the approach in 4.3 is proposed.

Issue 4.6: Open space

As indicated in 1.1 it is proposed that open space provision be mandated to the Department's evidence based standards which address quantity, quality and the nature of embellishments. This is what other jurisdictions like Western Australia do. However notwithstanding that, in any case the Department should provide some evidence based guidance to open space requirements for Councils in terms of the above matters. These would cover both urban release and infill situations.

The provision of open space is vexed:

- The dedication of easements (e.g. drainage) should be excluded as contributions or offsets, as they become a maintenance liability.

- The LSPS/LEP should illustrate strategic acquisitions (e.g. escarpment, greenways, river corridors, coastal foreshores) for dedication or acquisition. Those sites may be used as offsets, based on V-G valuation of proposed use(s)/zone.
- The cost or value of embellishment of open space (e.g. parks, sport fields), should be indexed on similar basis proposed in 3.6 and 4.4.

Issue 4.8: Improving transparency and accountability

An accountable reporting regime is supported.

The government is currently proposing amendments to the *Environmental Planning and Assessment Regulations* in regard to these and notes there will be significantly greater reporting requirements in respect of both contribution plans and planning agreements. The draft guidelines note that these detailed reporting requirements are yet to be developed. The costs and resources associated with these additional reporting requirements should be acknowledged and considered in designing these reporting requirements.

If these changes are to progress, they should be supported by provisions that allow planning authorities to collect costs to capture this additional regulatory and administrative burden. As an example minimum percentage costs could be nominated that councils can automatically apply to existing and proposed plans to cover these additional requirements. Council would suggest 0.5% be added to all existing contribution plans and future planning agreements (in addition to any existing administrative costs) to cover these additional reporting requirements.

In drafting the changes the Department also needs to design them to have regard to the shortage of skilled staff with the expertise to manage local infrastructure contributions as noted in this Issues Paper.

Issue 4.9: Shortage of expertise and insufficient scale


Agreed. This can be partly addressed through the model suggested in 1.1 and 3.4 and by adopting the approach suggested in 4.8 above.

Issue 4.10: Current issues with exemptions

The issue of exemptions is complex and from a local government perspective difficult and costly to administer (when contributions are sought) particularly when development is proposed by the Crown. There is a strong case based on all development that creates a need to augment existing infrastructure for not having any exemptions. A council can always resolve not to impose developer contributions if a meritorious enough case is put. Alternatively clear principles for exemptions should be identified and the current exemptions reviewed in terms of it.

Issue 4.11: Works-in-kind agreements and special infrastructure contributions

So long as the works-in-kind, or land is relevant to the particular development, meets the normal council standards and the council agrees to it then these should be an available as an alternative to infrastructure contributions.



Making works-in-kind credits tradeable is likely to make the public infrastructure system even more complex than it already is and is likely to also add to required resources to manage it at a local government level.

If you have any further enquiries please contact the undersigned on [REDACTED].

Yours sincerely,

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