



Australia's property industry

## Creating for Generations

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26 June 2020

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

**Attention: Ruth Murphy**

Email – [ruth.murphy@planning.nsw.gov.au](mailto:ruth.murphy@planning.nsw.gov.au)

Dear Ms Murphy,

### Policy Paper – Environmental Planning and Assessment Regulation 2000 Proposed Amendments

The Property Council welcomes the opportunity to provide comments to the Department of Planning, Industry and Environment on the proposed amendments to the *Environmental Planning and Assessment Regulation 2000* (the draft instrument).

As Australia's peak representative of the property and construction industry, the Property Council's members include investors, owners, managers and developers of property across all asset classes. We are pleased to provide the following comments in respect of the proposed amendments to the Regulation released in April 2020.

This proposal is one of five that were developed ahead of the COVID-19 pandemic and prior to the announcement of a broader review of contributions by the NSW Productivity Commission. We support the process of reforming development contribution arrangements and look forward to the implementation of most of the changes contemplated within the five issues papers.

#### Proposal 1 - Improved reporting on development contributions

This amendment (Items 16 – 20 of Schedule 1 of the draft instrument) proposes to require reporting by councils on the following matters which we welcome and support:

- Development contributions generally rather than just monetary contributions;
- Greater detail regarding infrastructure contributions such as specific project and location, and
- Publication of contributions plans, indexed s7.11 contribution rates, annual statements, and contributions registers on their website or on the NSW Planning Portal.

Further, we request that the Department consider making it a requirement that the data provided by all councils is presented in a consistent format. This will help the community to understand and compare this information.

#### Proposal 2 - Improve reporting on contributions received via planning agreements

There is a requirement in the draft instrument that all Planning Authorities must have regard to the draft Practice Note (April 2020) when preparing the explanatory note to a planning agreement. This is not consistent with the draft Ministerial Direction which makes this step mandatory for Councils only, while other Planning Authorities such as State Government agencies, need only consider the draft practice note.

These documents should be aligned, and all Planning Authorities required to have regard to the Practice Note when made. It should be expressly stated that the Practice Note applies to planning agreements with the Minister and with councils and other public authorities.

The proposed amendments impose more stringent requirements on planning authorities to make records in relation to a planning agreement publicly available. The additional financial reporting requirements are the most notable change. There is also inconsistency between the proposed provisions for Councils and for the Minister and other planning authorities. As such, the proposed change to clause 25F(3) (d) should be amended to replace the word 'annual statements' at proposed subclause (d) with 'financial reports' to ensure consistency with proposed subclause (d) in items 7 and 8 of Schedule 1.

#### Proposal 3 - Streamline process for making a contribution plan following receipt of the Minister's (or Minister's nominee) advice

Item 12 of Schedule 1 of the draft instrument proposes an amendment to clause 30A which will allow Councils to prevent public participation and submissions on draft contributions plans where the plan seeks to amend an existing contributions plan and the Minister exempts the draft contributions plan from the public consultation requirements.

The proposed clause should be deleted. It should not be open to the Minister or the Council to make substantive changes to a contributions plan without allowing for consultation and public submissions on the draft plan.

#### Proposal 4 - Limit the maximum percentage s7.12 levy that can be imposed in Gosford City Centre

The amendment proposed by the draft instrument will amend clause 25K(1)(b) to remove reference to certain land subject to *Gosford City Centre Local Environmental Plan 2007*. This will remove the current authority for Central Coast City Council to levy a section 7.12 contribution above 1% within the Gosford CBD. As there is now a Special Infrastructure Contribution (SIC) in force for Gosford CBD, this change is appropriate.

## Proposal 5 - Update the clause 25K outdated reference to Wollongong City Centre LEP

The amendment proposed by the draft instrument will amend clause 25K to replace reference to *Wollongong Local Environmental Plan 2007* with reference to *Wollongong Local Environmental Plan 2009*. This change is appropriate.

We thank you for the opportunity to provide the Department with comments on the policy paper and draft instrument. We would welcome the opportunity for our members to speak with the relevant officers on specific issues contained within the submission.

Should you have any questions regarding the consent of this submission, do not hesitate to contact, Troy Loveday, Senior Policy Advisor, on 0414 265 152 or [tloveday@propertyconcil.com.au](mailto:tloveday@propertyconcil.com.au)

Yours sincerely

A handwritten signature in black ink, appearing to be 'J Fitzgerald', with a stylized flourish at the end.

**Jane Fitzgerald**  
**NSW Executive Director**  
**Property Council of Australia**