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2 July 2020

Ms Gail Connolly
General Manager
Georges River Council
PO Box 205
Hurstville BC NSW 1481

Email – mail@georgesriver.nsw.gov.au

Dear Ms Connolly

Draft Amendment to the Georges River Policy on Planning Agreements (Council Ref: SF20/972)

The Property Council welcomes the opportunity to provide comments to Council on its draft amendment to the Georges River Policy on Planning Agreements.

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 to Council regarding the proposed changes to its planning agreements policy.

We acknowledge that Council developed these amendments to its Policy on Planning Agreements prior to March 2020 and resolved to place them on public exhibition in April 2020. This was prior to the Department of Planning, Industry and Environment (DPIE) also exhibiting a package of reforms, including changes to planning agreements and the *Environmental Planning and Assessment Regulation 2000*. This is an unfortunate coincidence.

Having regard to an updated draft package of guidance material becoming available, we suggest it would be premature for Council to finalise its draft policy until the Minister has made a decision on the DPIE package of reforms.

Notwithstanding this issue, there does not appear to be any significant misalignment between this policy and the draft VPA documents from DPIE, except for clauses 5.13 to 5.15, which contain a value capture mechanism which is now entirely contrary to DPIE's draft policy. As such, we would suggest that this be deleted from Council's policy.

The following specific comments are provided for your consideration:

1. Definition of Terms – the change from ‘Works in Kind’ to ‘Works’ makes the term confusing and needlessly ambiguous;
2. Clause 5.15 – contrary to the DPIE’s policy as set out above. It appears to impose a mandatory value capture contribution of 50% of the uplift where there is a variation from the height or FSR standard – in our view this is both excessive and contrary to the DPIE draft Practice Note.
3. Clause 5.22 is unclear in its drafting but appears to heavily discount the value of land dedicated under a planning agreement.
4. Clauses 7.1-7.2 – it is our understanding that it is usually held to be sufficient that either a bank guarantee or the registration of a VPA on land title is sufficient to protect the Council’s interest under a planning agreement, but these clauses state that registration on land title is intended to be in addition to other forms of security;
5. Clause 7.20 is identical to clause 5.25 and redundant; and
6. It is not clear why clause 16 of the template VPA relating to Council’s obligations to not unreasonably hinder the Developer has been deleted entirely.

Should you have any questions concerning the content of this submission, do not hesitate to contact Troy Loveday, Senior Policy Advisor, on 0414 265 152 or tloveday@propertycouncil.com.au

Yours sincerely

A handwritten signature in dark blue ink, appearing to read 'Jane Fitzgerald', with a stylized, flowing script.

Jane Fitzgerald
NSW Executive Director
Property Council of Australia