

14 December 2022

Chief Executive Officer
Wollondilly Council
62-64 Menangle St
PICTON NSW 2571

Electronic submission

Dear Sir/Madam

Re Draft Local Infrastructure Delivery Policies (VPAs, Dedication of Land, Works in Kind)

Urban Taskforce Australia welcomes the opportunity to provide comments on Council's Draft Local Infrastructure Delivery Policies (VPAs Dedication of Land, Works in Kind).

A number of our members have raised concerns about the disincentive this policy creates in relation to investment in housing supply.

NSW is in the midst of a housing supply and affordability crisis. Housing supply has been identified at a Federal and State government level as a priority issue. The NSW Government has recently announced a Rezoning Pathways Program to fast track the rezoning and assessment of up to 70,000 new homes. The Commonwealth Government's Housing Accord seeks to deliver 1,000,000 new homes by 2027 of which NSW, based on a long-term statistical average, is responsible for delivering approximately 32% or 320,000 homes over five years. On current projections published by the Department of Planning and Environment, NSW will fail to deliver the homes required of it.

Urban Taskforce encourages Council to review the draft local infrastructure delivery policy and submits the following comments and recommendations for Council's consideration.

Council's Draft Planning Agreement Policy

Wollondilly Council's draft planning agreement policy requires developers to provide maintenance for 35 years for any items that are included in planning agreements – including the first five years by developers at their cost, and the

next thirty years by Council via a monetary maintenance contribution provided through the planning agreement.

This appears to include infrastructure regardless of whether it is the kind that is, or could be, included in a contributions plan (open space, water cycle management infrastructure, roads) or other infrastructure that typically is not included in a contributions plan, such as conservation land or land burdened by transmission easements.

This unduly burdens the release of new land for housing, as it removes both the incentives and the efficiencies that Planning Agreements can deliver. By adopting this position, Council is effectively forcing developers to wait until a Contributions Plan is adopted to provide for a fair and equitable reimbursement of infrastructure costs.

Long-term maintenance for “contributions plan” infrastructure or “non-contributions plan community infrastructure” disincentivises developers from pursuing planning agreements, particularly those which include infrastructure that benefits the community, but it is not funded via a contributions plan.

The long-term maintenance costs for “contributions plan” infrastructure or “non-contributions plan community infrastructure” should be funded via future rates income generated from the development.

Recommendation 1 - Long-term maintenance contributions should not be required for any infrastructure that is delivered through a planning agreement but is the kind of infrastructure that is, or could be, included in an IPART-approved contributions plan.

Recommendation 2 - Long term maintenance contributions should not be required for infrastructure that a developer proposes to deliver through a planning agreement and is not included in a contributions plan due to IPART's essential works list restrictions, but which includes either active or passive open space or community infrastructure that will deliver significant community benefit and where funding cannot be received through a contributions plan (e.g. “non-contributions plan community infrastructure” such as open space with a higher level of embellishment to meet community needs/demand, community facilities and buildings etc).

Maintenance of stormwater basins

Wollondilly Council has an existing policy position requiring 35 years of maintenance for stormwater basins. Where this infrastructure is “contributions plan” infrastructure, long-term maintenance contributions should not be required, and instead, the infrastructure should be appropriately designed to minimise maintenance costs and an appropriate maintenance or defects liability period implemented to ensure that the infrastructure is established and in good condition prior to handover to the Council.

Recommendation 3 - where maintenance for stormwater basins is “contributions plan” infrastructure, long-term maintenance contributions should not be required, and instead, the infrastructure should be appropriately designed to minimise maintenance costs and an appropriate maintenance or defects liability period implemented to ensure that the infrastructure is established and in good condition prior to handover to the Council.

Quantum of Security required

In addition to the undue penalisation of infrastructure delivered under a Planning Agreement or Works in Kind described above, the requirement in the policy for developers to provide security equivalent to 200% of the value of the works is an unreasonable expectation and imposition.

A blanket approach fails to recognise the nuances or scale of developments and associated infrastructure as well as the perceived infrastructure delivery risk Council is seeking to mitigate. In this regard, Council should reconsider this position in favour of a regime that provides for both financial and non-financial mechanisms to ensure any delivery risk is appropriately mitigated.

Recommendation 4: that Council review the proposed requirement for developers to provide security equivalent to 200% of the value of works.

Savings Provisions

Urban Taskforce seeks clarification and a commitment from Council that a savings provision will apply in relation to Planning Agreements that have already been offered, negotiated and endorsed by Council and it is not intending that these projects will be subject to any additional maintenance contributions.

Recommendation 5: that Council confirms it not intending any further maintenance contributions for any other infrastructure which is essentially “contributions plan” infrastructure and can be funded through rates income.

Need for Master planning processes

The release of land is usually the subject of a master planning process that clearly identifies the infrastructure demands associated with large development.

Similar to past release areas and general practice in Western Sydney, this process should give comfort to Council regarding the type and cost of infrastructure and development of land should not be unduly burdened by additional maintenance cost burdens or delays to delivery of new housing.

Recommendation 6: that infrastructure should instead be identified through the master planning process and be efficiently designed having regard for future maintenance costs and funded through future rates income.

Clarification on provision of maintenance contributions

Finally confirmation is sought on whether developers are not required to provide maintenance contributions for “contributions plan” or “non contributions plan community infrastructure” infrastructure that could be delivered through a future planning agreement - regardless of whether or not the infrastructure is included in an adopted contributions plan.

Recommendation 7: that Council confirms that developers are not required to provide maintenance contributions for “contributions plan” or “non contributions plan community infrastructure” infrastructure that is delivered through a future planning agreement - regardless of whether or not the infrastructure is included in an adopted contributions plan.

Conclusion

NSW is in the grips of a housing supply and affordability crisis and infrastructure contributions need to be carefully considered less they kill off new housing supply or exacerbate the housing affordability crisis. The NSW Productivity Commission's 2021 White Paper, *Rebooting the Economy*, called for reform in the area of infrastructure contributions, based on the principles of 'nexus' – where there is a clear connection with the development, and

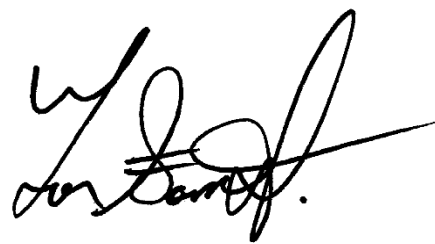
'apportionment' – where developers are responsible for the proportion of expenses they create.

Urban Taskforce is concerned that aspects of the Council's Draft Local Infrastructure Delivery Policies contravene these principles. Council requiring long-term maintenance contributions for all infrastructure is a significant financial burden on developers which could have implications for the supply of land, housing and affordability.

We have attached a list of recommendations made in this submission.

Should you wish to discuss this matter further, please call our Head of Policy, Planning and Research, Stephen Fenn on 9238 3969 or via email stephen@urbantaskforce.com.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a stylized flourish extending to the right.

Tom Forrest
Chief Executive Officer

Recommendations

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