Urban Taskforce
AUSTRALIA

24 May 2023

Hon Paul Scully MP
Minister for Planning and Public Spaces
GPO Box 5341
Sydney NSW 2000

Hon Daniel Mookhey MLC
Treasurer
GPO Box 5341
Sydney NSW 2000

cc. by email, CoS Paul Levins; CoS Michael Buckland
cc. Secretary DPE, Kiersten Fishburn; Secretary Treasury, Michael Coutts Trotter

Dear Minister and Treasurer

I write in relation to the Environmental Planning and Assessment Amendment (Housing and Productivity Contribution) Bill 2023, which I understand was introduced into the NSW Legislative Assembly on Tuesday this week.

We welcome this and support the spreading of the burden of the funding of local infrastructure across all developments that result in additional housing rather than simply burdening the big developments which are delivered by our members.

However, there is one element of the NSW Productivity Commission's recommendations which all of industry supports and was effective when introduced as a Pandemic Emergency measure to keep the property construction industry going.

That is the Productivity Commissioner's recommendation to have all infrastructure contributions paid at OC (the issue of the occupation certificate at the completion of construction required before occupants can settle on the property and move in) rather than payments being required at CC (Construction Certificate – before Construction starts).

Cashflow is at its lowest point at CC. It is the wrong time to be levying infrastructure contributions. Banks are often reluctant to increase loan outgoings at CC – but once they get to OC, full settlements are about to occur and this is far less of a problem.

Industry was advised that legislation was required to require that local infrastructure fees and charges (s.7.11 and s.7.12) be deferred till Occupation Certificate (rather than Construction Certificate). But it is disappointing to our members that the State Government has not chosen to include this change as part of this Bill and worse, has not taken the lead to make this productivity boosting change for its own new fees and charges.

While disappointed that this is not in the first reading of the Bill, we would certainly welcome a Government or cross-bench amendment to the Bill or the associated administrative orders for the new Housing and Productivity Contributions, and for the change to be widely applied to Local Infrastructure contributions under S.7.11 and 7.12 at the next possible opportunity.

We appreciate this this will have a minor impact on the flow of money to the Treasury, but we contest that this will be more than offset by the positive boost that the delay in these payments will make to the delivery of housing numbers. This was the view of the productivity commissioner and the advisory team from Treasury and this was strongly supported by industry.

I have included below a section from the Productivity Commission's final report into their review of Infrastructure Contributions.

Summary recommendations – Section 7.11 contributions
4.5: Section 7.11 contributions plans use benchmark costs
4.6: Contributions plans reflect development-contingent costs only
4.7: Independent Pricing and Regulatory Tribunal review of contributions plans be 'by exception' and based on efficient costs
4.8: Contributions plans are prepared using standard online templates and digital tools
4.9: Encourage councils to forward fund infrastructure, through borrowing and pooling of funds
4.10: Defer payment of contributions to the occupation certificate stage

Following reform of the revised local government rate peg, works that are not development-contingent should be removed from the essential works list. Standard rates for infrastructure provision, i.e. benchmarked efficient costs, and limiting the Independent Pricing and Regulatory Tribunal review of section 7.11 contributions plans to be only 'by exception', will reduce costs and administrative complexity.

Forward funding infrastructure will also reduce costs and enable more timely delivery. But councils' uptake of low-cost loans, available through T-Corp, has been low. Addressing barriers will make financing more attractive. These include allowing interest rates to be recouped in contributions plans and legislative amendment making pooled contributions the default. Cultural change related to council attitudes to borrowing is also required; establishing a State fund to incentivise financing will help.

As a COVID-19 response, payment of contributions has been temporarily deferred to the occupation certificate stage to encourage more development projects to commence. Deferral should be permanent, subject to all contributions having been paid, before an occupation certificate is issued.

Review of Infrastructure Contributions in New South Wales – Final Report 8

I would welcome the opportunity to speak with you or your staff regarding this matter at the earliest convenience.

Yours sincerely

Tom Forrest
Chief Executive Officer