3 August 2020

Mr Peter Achterstraat AM
NSW Commissioner for Productivity
52 Martin Place
SYDNEY NSW 2000

Response to the Infrastructure Contributions Review

Thank you for the opportunity to respond to the Infrastructure Contributions Review. This submission is made jointly **by Business NSW, Sydney Business Chamber** and **Western Sydney Business Chamber** (the Chambers).

The Chambers support the high-level principles for a reformed system outlined in the Issues Paper. Efficiency, equity, certainty and simplicity are admirable criteria against which to benchmark reform proposals, and we support efforts to identify solutions which meet these principles. Despite this, we note there are some inherent tensions in meeting these principles and that trade-offs must be considered.

The NSW Commissioner for Productivity (the Commissioner) is right to aim to resolve administrative and operational barriers to these principles. However, the contradictions in the current system are too fundamental to be resolved through a gradualist approach to reform.

The Issues Paper shows how thinking about the problem cannot be narrowly confined to the contributions system. The implications for local authority funding and the broader taxation system are wide-reaching. Broader reforms to local government funding are needed to address the underlying issues and establish a taxation and property levy system that's capable of meeting the needs of the community.

There is an opportunity to resolve some of the administrative challenges associated with the current system. There is a bigger opportunity to ensure infrastructure contributions – and infrastructure funding more generally – form part of a broader funding system that is optimised to boost economic capacity and deliver improved amenity.

Formerly NSW Business Chamber, BusinessNSW is the peak policy and advocacy body which has been representing businesses in NSW since 1826. BusinessNSW is one of Australia's largest business support groups with a direct membership of 20,000 businesses. BusinessNSW works with government, industry groups, as well as business and community leaders to provide a voice for our members. Operating throughout a network in metropolitan and regional NSW, BusinessNSW reperesents the needs of business at a local, state and federal level.

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Value of contributions and planning reform for growth and recovery

COVID-19 presents a once in a generation challenge for our business community. Businesses have had to make enormous sacrifices to keep all of us safe during this global health crisis. Unfortunately, this has come at great cost, with many businesses having to close their doors or lay-off staff.

Business NSW's *Back on Track* report presents the results of our Business Recovery Survey, with NSW businesses reporting business revenue is down 43 per cent on average. Some industries report a weaker outlook, with construction businesses indicating an average 18 per cent drop in customer demand. A quarter of construction businesses indicated they do not expect their business to be back to normal by October.

Governments have taken decisive action to protect citizens against COVID-19 and limit the economic damage resulting from restrictions on large parts of our economy. This has included commitments to fast-track infrastructure spending, reduce taxes that contribute additional costs to the construction of new dwellings (such as stamp duty and land tax concessions) and reforms to the planning system. While it is appropriate to consider appropriate infrastructure contributions models in a longer-term, the Chambers believe consideration of the contemporary challenges faced by the business community must be central to implementation and the sequencing of reform.

The Chambers observe that many decisions taken by governments to address current economic challenges are justified given their impact on demand at a time when the economy is running well below its potential. These changes are not necessarily designed to meet longer term needs, but rather as a timely boost to economic activity.

We support a pragmatic approach to ensure there are no additional barriers to our economic recovery. In practice this may mean deferring implementation of some reforms that present challenges in the current economic environment, even though they may be desirable in the longer-term.
More generally, there is an opportunity to unlock local government infrastructure pipelines to support economic recovery. In the absence of more comprehensive reforms to overcome financing constraints, supplementary policy initiatives may be needed in the near term to unlock this potential.
The Western Sydney Business Chamber has proposed a financing scheme to support local governments to fast-track shovel ready projects.[1] Recent stimulus programs like the Commonwealth's Local Roads and Community Infrastructure Program[2] offer a temporary boost to funding availability. This may help some councils catch up some of their infrastructure backlog but does not address the issues that caused those backlogs to exist in the first place.

Need for cost certainty and simplicity of process/reduced number of fee types

The Chambers share concerns raised in the issues paper about the complexity, and espcially the opacity, of contribution plans. The ability for contribution liabilities to act as a price signal for infrastructure development is lost when relevant parties cannot tell what the price is.

The NSW government and councils across the state should aim to move to a more 'mechanical' system for determining contributions. With a clear understanding of a proposed development's location and characteristics, a proponent can determine to a high degree of confidence what its contributions liability will be before entering the formal application process.

[1] Page 11, https://thechamber.com.au/thechamber.com.au/media/Policy/WSBC-Shovels-ready.pdf.

[2] https://investment.infrastructure.gov.au/infrastructure_investment/local-roads-community-infrastructure-program/

The burden on councils to make bespoke judgments on contribution amounts for every development is currently too high. Even if it is a power councils wish to retain, the failure of so many of NSW's councils to keep up with basic best practice (the Issues Paper cites 37 per cent of councils with plans over a decade old) shows they are not meeting their responsibility.

Unfortunately, not all councils across NSW welcome development in their areas. Councils who oppose developments should not be allowed to use out-of-date plans and cumbersome application processes as non-price barriers to development. However, the Commissioner should also recognise that for some councils it is a lack of resourcing, rather than obstructive intent, that has led to plans not being updated.

Establishing a clear statewide framework for assessing proposals and levying fees is the only way to strip away this unnecessary complexity. This will prevent councils from intentionally making the contributions process difficult and assist those councils whose outdated plans reflect a lack of resources and capacity to be brought up to date.

If fundamental reform is not deemed possible and it is decided to keep the existing complex system, investment in training will be needed. Developers – including not just well-resourced corporate developers, but also individual small business owners and homeowners – need access to expertise to understand how the system works and how to navigate it. Whether through hired consultants or permanent staff, this adds further cost to those looking to develop property in NSW.

Value capture for major infrastructure

The Chambers support the introduction of 'value capture' to supplement resources available for infrastructure investment and to prevent windfall gains from infrastructure development.

Further rounds of asset recycling can provide a substantial boost to the stock of NSW's infrastructure investment. There is also room to expand use of user-pays charges, particularly for roads and public transport. However, these opportunities are not always available nor are they the only way that NSW can fund projects to reduce its infrastructure deficit. With NSW's population forecast to grow to almost 10 million people by 2036, significant investment in infrastructure will be continually required to ensure NSW remains a productive and liveable state.

The Government should therefore consider opportunities for increased use of 'value capture' and user-pays, as well as alternative approaches to leveraging the state's balance sheet to ensure our infrastructure needs are met. This should include taking advantage of a low interest rate environment to invest in viable infrastructure projects.

There are several problems that 'value capture' could potentially address. Windfall gains to private property owners from the increase in value of their property due to public investments in infrastructure (e.g. a new Metro line) leaves a discrepancy between those who gain from infrastructure and those who pay for it.

Those distortions can have further consequences in the development of infrastructure, potentially leading to less-than-optimal investment in infrastructure if the value of benefits cannot be captured. It can also distort the political and planning process associated with particular projects, as participants in that process seek to maximise their windfall gains rather than determining the optimal choices for the whole system.

However, 'value capture' appears better suited as a targeted measure alongside major projects with relatively localised impacts (such as new transport lines, roads). For everyday infrastructure –

footpaths, schools, parks – other funding options will be more appropriate. Addressing local government funding arrangements must be part of the strategy.

Local government funding solutions

Business NSW previously engaged with IPART's Review of the Local Government Rating System. Business NSW's submission[3] to this review process noted:

- local government rates are low while state taxes are high in NSW compared to other jurisdictions
- there is appeal in moving to a tax base that grows in line with the demand for local government services, reducing the pressure faced by business ratepayers which are increasingly expected to cross-subsidise the cost of providing services to residents (noted in the context of IPART's proposal to move to the capital improved valuation method)
- any increase in rates paid by business should be matched by further efforts to improve the competitiveness of the NSW tax system through business tax reductions.

Business NSW also proposed that local government finances be considered in the broader context of the Thodey Review of Federal Financial Relations[4] given similar vertical fiscal imbalances exist between state and local governments. As the issues paper notes (p. 28):

> *"Rates revenue funds service delivery for the existing community including recurrent costs that cannot be recovered through infrastructure contributions. The rate peg, however, acts as a financial disincentive for councils to accept development. In its presence, their rates revenue does not rise as population and land values increase. This contrasts with the both State and the Commonwealth, which are both able to expand their revenue with rising population and asset prices."*

Business NSW also noted that there are differences in the revenue raising capacity of local governments in regional areas and that further work is needed to assess how grants distribution could be designed to more strongly support regional and rural councils that cannot obtain funding from other sources.

Each of these factors highlights that local government finances cannot be considered in isolation. Decisions that weaken local government finances expose the NSW Government to potentially higher future costs. That is, the NSW Government will be compelled to provide financial support to local governments or take over responsibility for services traditionally delivered at the municipal level. The gains associated with lower rates may therefore be illusory as other taxes such as payroll tax and stamp duty must ultimately shoulder the cost of delivering services to the community.

Business NSW has previously expressed concern that NSW is overly reliant on inefficient taxes, such as stamp duty and payroll tax. Alternative taxes such as a broad-based land tax are generally regarded as a much stronger performer against efficiency criteria. Local government rates are also relatively efficient because they share some of the same features that account for the efficiency of land tax. For this reason, it is preferable to fund local government services using rates revenue, particularly where doing so can facilitate a reduction in future revenue that needs to be collected from less efficient state taxes.

That said, a reasonable rationale for containing the growth in local government rates may be to ensure fiscal discipline and that expenditures do not venture beyond genuine community needs. The review

[3] https://www.nswbusinesschamber.com.au/NSWBC/media/Policy/190802_SUBMISSION_IPART_Rating-System_FINAL.pdf

[4] https://www.treasury.nsw.gov.au/federal-financial-relations-review

may wish to consider alternative mechanisms to ensure fiscal accountability without impacting the efficiency of the tax system.

If you have any questions about this submission or would like to discuss in more detail, please feel free to contact me at Simon.Moore@businessnsw.com.

Yours sincerely

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