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17 December 2020

Ms Sarah Lees
Director Southern Region
Department of Planning, Industry and Environment
PO Box 5475
WOLLONGONG NSW 2520

Email – llawarra@planning.nsw.gov.au

Dear Ms Lees

Submission - Draft Illawarra Shoalhaven Special Infrastructure Contribution

The Property Council welcomes the opportunity to provide comments to the Department of Planning, Industry and Environment on the proposed Illawarra Shoalhaven Special Infrastructure Contribution (the draft SIC).

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, with a broad sector of members across the Illawarra Shoalhaven.

We are pleased to provide the attached comments on the Plan for your consideration.

[Redacted signature block]

Yours sincerely

A handwritten signature in black ink, appearing to read "Michelle Guido".

Michelle Guido
Illawarra Regional Director
Property Council of Australia

Submission to Department of Planning, Industry and Environment

Draft Illawarra Shoalhaven Special Infrastructure Contribution

17 December 2020

1.0 General Comments

The Property Council welcomes the opportunity to provide comments on the draft Illawarra Shoalhaven Special Infrastructure Contribution (**the Proposal**). We have reviewed the following documents released for comment:

- Proposed Illawarra Shoalhaven Special Infrastructure Contribution (brochure),
- Draft Illawarra Shoalhaven Special Infrastructure Contribution (fact sheet),
- Draft Environmental Planning and Assessment (Special Infrastructure Contributions - Illawarra Shoalhaven) Determination 2020 (**the draft Determination**);
- Draft Environmental Planning and Assessment Amendment (Illawarra Shoalhaven Special Contributions Area) Order 2020 maps (**the Maps**); and
- Illawarra Shoalhaven Feasibility Analysis Model (**the Feasibility Model**).

The draft Determination indicates that the SIC levy is intended to apply to “*greenfield residential land*” within the Illawarra Shoalhaven Special Contributions Area. The contributions area generally represents the primary urban release areas in the local government areas of Wollongong, Shellharbour and Shoalhaven. We support the continuation of the SIC for urban release areas but do not support any extension of the proposed SIC into established areas without further consultation with industry stakeholders.

The proposal replaces the previously exhibited but not finalised draft Illawarra SIC that was released in February 2011. It is understood that the draft Illawarra SIC is currently applied to development proposals through clause 6.1 Arrangements for designated State public infrastructure of *Wollongong Local Environmental Plan 2009*. Developers in Wollongong’s West Dapto urban release area have negotiated planning agreements with the State Government that have been generally consistent with the contribution rate set out in the 2011 draft SIC (\$73,219 per hectare of developable land). Shoalhaven’s urban release areas have also been subject to a satisfactory arrangements’ clause in its local environmental plan. We acknowledge that new greenfield housing has been making a financial contribution towards regional infrastructure for a number of years. The move towards a more transparent process with consultation and engagement is welcomed.

We urge the Department to avoid increasing the rate of contribution beyond that which has applied to new development in the region since the 2011 draft SIC was exhibited.

2.0 Proposed Special Infrastructure Contribution

2.1 Contribution Rates

The proposal as set out in the draft Determination involves three (3) contribution rates that will apply across the growth areas within the contributions area.

The initial rates (before 1 July 2021) are indicated in clause 11 of the draft Determination as follows:

Growth Area	Contribution Rate (\$/hectare NDA)
West Lake Illawarra	
West Dapto sub-growth area	\$125,159
Calderwood Tallawarra sub-growth area	\$97,668
Nowra Bomaderry	
Nowra Bomaderry	\$72,044

It is understood these rates are based on feasibility testing undertaken by economic consultants engaged by the Department and set out within the capacity to pay study (Feasibility Assessment Model).

Clause 23 of the draft Determination provides for a reduction in the contribution rate for the first two years after the SIC is made. In the first year of the SIC after its commencement until 1 July 2022 the full rate will be subject to a 50% reduction. During the second year after the SIC's commencement between 1 July 2022 and 1 July 2023 the full rate will be subject to a 25% reduction. The reduced rates are provided in the table below.

	Year 1 - \$/hectare	Year 2 - \$/hectare	Year 3 - \$/hectare
West Dapto (with and without biodiversity)	\$62,579 (\$46,622)	\$93,869 (\$69,933)	\$125,159 (\$93,244)
Calderwood Tallawarra	\$48,834	\$73,251	\$97,668
Nowra Bomaderry	\$36,022	\$54,033	\$72,044

The Property Council welcomes the staged introduction of the SIC levy between 2021 and 2023 which will allow for the financial impact of the full SIC rate to be factored into land acquisition costs.

2.2 Annual Indexation

Clause 12 of the draft Determination indicates that contribution rates for the Illawarra Shoalhaven SIC will be annually adjusted by the Consumer Price Index (CPI) for the March Quarter. Details of the new rates to come into force from 1 July each year should be made available on the Department website and the NSW Planning Portal.

This approach to indexation is understood to be consistent with other SIC levies in force through NSW and is supported.

2.3 Calculating of Net Developable Area

Clause 13 of the draft Determination sets out the process for calculating Net Developable Area (NDA).

The process of calculating NDA involves the exclusion of land that is to be dedicated as road, the area of an existing road, land that is flood-affected, any land within the curtilage of a building listed on the State Heritage Register, land within an asset protection zone (APZ), land subject to an easement in favour of a public utility undertaking and land within a public transport corridor.

The Property Council supports the exclusion of all land affected by these constraints from the calculation of NDA.

2.4 Biodiversity Conservation

Clause 17 of the draft Determination applies to land within the West Dapto Sub-Growth Area that has not been biodiversity certified. We understand that Wollongong City Council is currently in the process of seeking biodiversity certification for the precinct and pending conferral. The Property Council supports the use of strategic biodiversity certification for the West Dapto urban release area.

The contribution rate applying to West Dapto will be reduced by 25.5% (being the costs of conservation measures that will be required to be implemented if biodiversity certification is conferred on land in that area). The reduction is equivalent to approximately \$32,000 per hectare of NDA.

The Property Council acknowledges the value of strategic biodiversity certification to satisfy the requirements of the *Biodiversity Conservation Act 2016*. At the appropriate stage of the process, we will welcome the opportunity to review the specifics of a biodiversity certification proposal for the West Dapto Urban Release area that would provide greater certainty and cost savings for development within the precinct.

The Property Council supports the partial reduction of the contribution rate for West Dapto until such time as strategic biodiversity certification is conferred.

2.5 Time of Payment

Clause 19 of the draft Determination sets out the arrangements for payment of the Illawarra Shoalhaven SIC levy. The current arrangements are that payments are to be made before a Subdivision Certificate for a plan of subdivision or a Construction Certificate is issued for building work.

The Property Council supports the deferral of payment of a SIC to the release of the Occupation Certificate. This is currently the case for local contributions during the COVID-19 prescribed period. Since July 2020, it has been possible to defer the payment of local infrastructure contributions and levies for certain specified development types until the first Occupation Certificate.

This was also suggested by the Productivity Commissioner who has made recommendations to better align timing of payment of contributions and delivery of infrastructure. Recommendation 4.10 of the Final Report into the Review of Infrastructure Contributions in NSW has recommended a permanent extension of the current Ministerial Direction that allows for deferred payments of local contributions. It is appropriate that SIC payments are aligned to the payment of local contributions.

It is noted that clause 22 of the draft Determination provides for the temporary deferral of payments during the COVID-19 pandemic period under certain conditions. We welcome the Department providing for this temporary deferral and recommend that consideration be given to permanent arrangements being put into effect.

2.6 List of infrastructure and attributable cost

Schedule 2 of the draft Determination lists the infrastructure items that will be funded through the proposal. The total cost of the works funded under the proposal is \$121.7 million. It is noted that a majority of the regional infrastructure proposed within the West Dapto are focused on transport (particularly roads). It is important that there is no overlap between the transport infrastructure that is being funded and delivered under the proposal and those that Wollongong City Council is delivering under its local contributions plan. We encourage the Department to work closely with Wollongong Council to ensure that there is no overlap between these contributions.

3.0 Transition from current arrangements

The proposal involves a gradual introduction of the SIC to affected development over a two-year period. The discounted contribution rate for 2021-2022 and 2022-2023 is both appropriate and welcome. This will allow for the full cost of the SIC to be considered as part of land acquisition transactions and reduce its impact on project viability.

We understand that once the SIC is made and has come into effect the current satisfactory arrangements clause in *Wollongong Local Environmental Plan 2009* and *Shoalhaven Local Environmental Plan 2014* will no longer apply to the SIC contribution areas.

4.0 Conclusion

The Property Council acknowledges that it is reasonable for the development industry to make financial contributions towards the cost of regional infrastructure that support growth across the Illawarra Shoalhaven region.

We support the finalisation of the Illawarra Shoalhaven SIC as a mechanism to deliver more than \$121 million of regional infrastructure for the benefit of the region. As the proposal will replace the current process which is not transparent and has not been the subject of industry consultation, we welcome the introduction of the SIC. We have made some comments in this submission regarding overlap with local contributions, timing of payment and indexation of contribution rates and we would welcome the Department taking those matters into consideration.