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Department of Planning, Industry and Environment  
4 Parramatta Square  
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PARRAMATTA NSW 2150

By email

Dear Sir/Madam

### **Draft Western Sydney Aerotropolis Special Infrastructure Contribution**

Thank you for the opportunity to comment on the draft Western Sydney Aerotropolis Special Infrastructure Contribution (SIC) prepared by the Department of Planning, Industry and Environment (DPIE).

This submission is on behalf of the Leppington Pastoral Holdings Pty Ltd (LPH), the owner of significant holdings in the Aerotropolis Core and Agribusiness precincts, in Liverpool local government area. We appreciate DPIE's decision in December 2020 to extend the timeframe allowed for submissions.

### **The SIC should be harmonised with the local contributions plans and Precinct Plans**

Penrith and Liverpool Councils have jointly prepared a section 7.12 Contributions Plan for local infrastructure required to support development in the Aerotropolis. Draft Precinct Plans have also been released for comment by the Planning Partnership. The approach taken to finalising the State and local contribution regimes and the Precinct Plans should be harmonised to address potential coordination issues including:

- Ensuring there is no “double dipping” across the two contributions frameworks
- Equally, ensuring that no potential contribution items have been inadvertently omitted from either of the contributions frameworks
- Ensuring that the logic underpinning both contributions frameworks and the draft Precinct Plans is consistent (refer to next section for a potential mismatch between the various draft plans)
- Ensuring there are complementary budgeting and forecasting processes between the two contributions frameworks (and any supplementary funding mechanisms), so that local infrastructure and state infrastructure items are both provided in line with demand and
- Ensuring that works-in-kind arrangements at the local and State level are broadly similar and are administered consistently as a means of minimising administrative burden on the State, local councils and developers.

### **The Net Developable Area (NDA) charge has a potential “double dip” component**

The NDA charge is calculated on net developable area, excluding land to be dedicated as roads, land that is at or below the 1% flood planning level, or land subject to an easement in favour of a public utility (*Draft Western Sydney Aerotropolis Special Infrastructure Contribution Fact Sheet, November 2020, p.4*). It is not clear if this is an exhaustive listing of proposed exclusions and for the avoidance of doubt it may be beneficial to list other exclusions, which typically would include land used for open space, school sites, riparian/environmental corridors and the like.

Draft Precinct Plans currently on exhibition for the initial Aerotropolis precincts propose large areas, sometimes upwards of 100m wide, be set aside for “green links”. The green links follow hydrolines (a proxy for watercourses), identified on topographical maps. In many instances, these watercourses do not exist in the landscape and the land which is identified as containing the green link is otherwise developable. Further, the draft section 7.12 Contributions Plan propose the green links following Strahler Order 1 and 2 watercourses (lower order watercourses) are managed by developers and/or landowners in perpetuity. If this is the case, then landowners/developers:

- Are giving over otherwise developable land for generous green links that sit either side of Strahler Order 1 and 2 hydrolines
- Will not be compensated for this land under the section 7.12 Contributions Plan as presently drafted, as acquisition of land affected by Strahler Order 1 and 2 streams are specific carve-outs from the section 7.12 plan
- Will need to finance the ongoing management of this land because it will not be in public ownership, yet will be providing a discernible public benefit and
- Will pay a SIC levy on a significant proportion of the land comprising green links because much of the land either side of Strahler Order 1 and 2 streams is not below the 1% flood planning level and is otherwise developable, meaning it attracts a SIC levy.

It is recommended this issue be re-examined prior to finalising the SIC levy. An equitable approach would be to also exclude land given over to green links from the NDA calculations, whether or not those green links are in private or public ownership. Separately, this example also highlights the complexity generated by having multiple parties (DPIE; local councils; Planning Partnership) administering different parts of the planning system (SICs; section 7.12 Contributions Plans; Precinct Plans, respectively) in the same geography. Coordination across agencies, or a reduction in the number of agencies involved in administering the system, is required if the planning system is to deliver the desired efficiencies in the Aerotropolis.

### **A more generous transitional period should be considered**

The draft SIC proposes transitional arrangements whereby for the first year of operation, the SIC would be reduced by 50% and in the second year the amount otherwise payable would be reduced by 25%. This is proposed to allow the market sufficient time to adjust to the full SIC rate.

While faster approvals have been foreshadowed by the new planning framework proposed for the Aerotropolis, the detail of how exactly that new framework will apply and achieve expedited approvals is presently unknown. Recent experience of opening new development fronts in peri-urban areas has shown that even with the best of intent initial approvals are slow as the regulatory and approval systems adapt to the new controls – and authorities often have to also cope with an influx of initial applications, delaying approvals.

For this reason, a more generous transitional period of three years at 50% and a further three years at 25% from finalisation of the SIC is recommended.

### **Final SIC documentation should include indicative timing for infrastructure provision**

Best practice would suggest that indicative timings are proposed in final SIC documentation for the infrastructure items which are to be partially funded by the SIC. As Precinct Plans are finalised, master plans commence preparation and further consultation occurs with the development industry, the location of initial development fronts within the initial precincts will become evident. This data will assist in identifying approximate timing for infrastructure items covered by the SIC (and may initially be expressed in bands of years (eg years 0-3; years 4-6; etc)).

Anticipated timing of SIC infrastructure provision, even if only approximate, will assist Budget-reliant agencies plan and prepare Business Cases for investment decisions in a timely manner. In turn this will mean the funding required from NSW Treasury (or other funding sources) for these items is identified and ready to be allocated when the need for the infrastructure is realised.

Consideration could also be given to grouping infrastructure items by type or geography (for example, by precinct) into a single Strategic Business Case to streamline the processes which support Government's investment decisions, allowing the range of infrastructure which supports development and is planned/delivered by multiple agencies to be planned and delivered with greater certainty.

### **The SIC needs some flexibility to allow for critical infrastructure not yet specifically identified**

The SIC documentation contains a detailed list of infrastructure items proposed to be (part) funded by the SIC. This transparency is welcomed. However, it is likely that as development occurs in the Aerotropolis, itemised infrastructure may be de-prioritised or completely abandoned. Equally, state-level infrastructure items which are not presently identified may need to be provided in future development stages, to support the SIC items which have been identified and as more detailed planning occurs. Amending a SIC to accommodate these changed circumstances and priorities is not an easy task, is time-consuming and requires Ministerial approval. In the case of the addition of potential new items to the SIC, the time taken to obtain approval and make the necessary amendments may mitigate against a developer's preparedness to provide those items as works-in-kind in the first place. This means that provision of infrastructure is forgone in preference for a fast(er) and less complicated development approval process, meaning ultimately the infrastructure is provided by Government at a later time for greater cost.

The SIC should contain a mechanism which allows new items to be identified, included in the SIC and provided by developers if these items are truly delivering a state or regional benefit, or if they are required to directly support the provision of an item which is in the SIC. This could involve allowing the cost of providing such items (provided as works in kind by developers) to be offset against contributions which would otherwise be sought. Ideally, Ministerial approval to add new items to the SIC would not be required, but the process would need appropriate oversight which could be administered by existing inter-agency committee structures involving the infrastructure agencies, DPIE and Treasury.

