

**INQUIRY INTO ENVIRONMENTAL PLANNING AND
ASSESSMENT AMENDMENT (INFRASTRUCTURE
CONTRIBUTIONS) BILL 2021**

Organisation: Canterbury Bankstown Council

Date Received: 12 July 2021

11 July 2021

The Chairperson
Portfolio Committee No. 7–Planning and Environment
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Sir/Madam,

**Parliamentary Inquiry into the Infrastructure Contributions Reforms –
Canterbury Bankstown Council Submission**

Thank you for the opportunity to submit Council's position to the Parliamentary Inquiry into the Infrastructure Contributions Reforms.

With 394,000 residents, Canterbury Bankstown is the largest local government area by population in NSW. Each year we receive an average of \$13 million in development contributions. Our three current contributions plans require us to deliver over \$280 million in capital works over the life of the plans. Our strategic centres of Bankstown and Campsie will accommodate more than 45,000 additional residents in a city forecast to grow to 500,000 residents by 2036, along with 44,000 further workers.

Responsive and efficient infrastructure that is affordably and strategically delivered is fundamental to maintaining and enhancing the quality of life of our residents, workforce and visitors and to continued investment. As a merged Council, we are in the process of consolidating our development contributions plans.

Council recognises the need to reform the infrastructure contributions process in NSW and raises the following issues following a review of the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021:

1. Council does not support the proposal to regulate the cost of public amenities and services
2. Council does not support the proposed scope for Ministerial Directions in relation to infrastructure contributions
3. Council supports the proposed land value contributions subject to amendments
4. Council supports Regional Infrastructure Contributions, subject to amendments
5. Council supports the pooling of contributions across plans
6. Council supports contributions debt recovery through a court of competent jurisdiction
7. Savings provisions are required for existing contributions plans
8. The commencement period for the changes should be staged
9. Supporting explanatory documents regarding the amendments should be publicly available.



Further details on the above issues are attached for your information.

Yours sincerely

Mitchell Noble
Manager Spatial Planning



ATTACHMENT–Canterbury Bankstown Council’s Submission to the Parliamentary Inquiry into the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021

Council raises the following issues in relation to the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021.

Issue 1: Council does not support the proposal to regulate the cost of public amenities and services

The Bill (section 7.11) proposes to calculate the cost of public amenities and services in accordance with regulations and Ministerial Directions.

The concern is there is no detail of the accuracy or suitability of these costings. Without such detail, Council cannot be confident of its appropriateness and there is a risk of councils having to fund infrastructure cost shortfalls if values are too low and not indexed.

Issue 2: Council does not support the proposed scope for Ministerial Directions in relation to infrastructure contributions

The Bill (section 7.17) proposes to permit Ministerial Directions to determine:

- The contribution rate

The existing capping of residential development contributions has led to infrastructure funding gaps borne by councils and their communities, with consequent reductions in the amenity of neighbourhoods and the functional efficiency and appeal of suburban and greenfield areas.

The concern is the proposed scope will enable further Ministerial intervention in capping contributions. To address this, councils should continue to determine the contribution rates in accordance with nexus and reasonableness principles. These established mechanisms provide protections against any possible overcharging of contributions rates.

- The types of infrastructure on which contributions can be spent

Local plan making currently identifies the types of infrastructure that are needed to meet growth. The concern is this desirable outcome cannot be effectively achieved if Ministerial Directions are to solely determine the types of infrastructure that may be funded by contributions plans. To address this, best practice guidelines would be an appropriate mechanism to describe the types



and rates of infrastructure provision for different development/community scenarios in place of Ministerial Directions.

- The timing of contributions payments, including for existing consents to be eligible for modified/later payment dates

The concern is this initiative would result in infrastructure delivery lags for new communities by undermining the time available to councils to collect and expend contributions on new facilities in readiness for the incoming growth community. Planning and programming the delivery of infrastructure, especially large facilities, may take significant time and this initiative may add to infrastructure delivery delay.

To address this, existing payment thresholds should continue. The timing of contributions payments should not be deferred. This will help to ensure the delivery of infrastructure is timed to coordinate with growth.

- Planning proposals being accompanied by contributions plans

The concern is greater detail is required regarding the threshold or circumstances in which planning proposals should be accompanied by contributions plans. To address this, this initiative should be limited to planning proposals that propose significant growth, in consultation with councils.

Issue 3: Council supports the proposed land value contributions subject to amendments

Council supports the proposed establishment of land value contributions and the allocation of these contributions towards land for public purposes required by new development (sections 7.11 and 7.18–7.18A).

Land value contributions recognise that more intensive use of land following rezoning will require funding for significant additional infrastructure and land for facilities such as open space, community centres, environmental enhancement and drainage. The current cap on residential contributions has resulted in significant infrastructure funding shortfalls across metro Sydney and this is primarily associated with land acquisition costs.

However, Council's support is subject to the Bill providing greater certainty on the following matters to be detailed in the Environmental Planning and Assessment Regulation:

- The land intensification threshold at which land value contributions would apply.
- Public land purposes for which contributions may be used. The definition should include land for any public purposes required for new development e.g. open space, community centres, drainage, roads.



- How the land contribution rate will be calculated. The contributions rate should cover the full cost of the additional public purpose land and the method of calculation should be as simple and transparent as possible.
- How land is valued and that value indexed. The current market rate should apply and be indexed quarterly by the NSW Valuer General to ensure land acquisition cost gaps do not arise, which may undermine the intention of the initiative and leave councils with a land acquisition funding gap.
- The percentage of land value capture that will go towards a contribution.
- The process for providing land value contribution certificates by councils. This should be an online process, coordinated by the Department of Planning, Industry and Environment through the Planning Portal. This would be critical for councils with limited Information Technology, GIS and contributions planning resources. If this process is to be managed by councils, the fees for Certificates should enable full cost recovery.

Council also supports the following provisions in the Bill:

- The payment of land value contributions to occur following rezoning but prior to the land being sold.
- Land value contributions being additional to existing section 7.11 contributions.
- Land value contributions not being offset against section 7.11 contributions or material public benefit.

Issue 4: Council supports Regional Infrastructure Contributions subject to amendments

Council supports the establishment of Regional Infrastructure Contributions (sections 7.22–7.29), including:

- the development of a formal process for levying regional infrastructure contributions;
- the broad range of purposes to which they may be applied;
- that they are additional to local infrastructure contributions;
- the requirement for Regional Infrastructure Contributions to be paid even if certifiers neglect to include the contribution in a complying development approval – this provision should be broadened to also include local contributions.

However, Council's support is subject to:

- A nexus between the Regional Infrastructure Contribution rate and the proposed development, as occurs for local infrastructure contributions. This will engender confidence in the Regional Infrastructure Contribution process and provide equity across regions, helping ensure all regions receive the same base level of funding towards the same types of infrastructure, allocated at the same level.
- Currently, Special Infrastructure Contribution rates vary markedly across Sydney and NSW and there is no requirement for the contributions to be spent in the area in which they are collected. The Bill should include provisions addressing this issue for Regional Infrastructure Contributions.



Issue 5: Council supports the pooling of contributions

Council supports the proposed pooling of contributions (section 7.3) as it builds on existing development contributions pooling allowances permitted within contributions plans. This will enable councils to better program the timely delivery of works.

Issue 6: Council supports contributions debt recovery through a court of competent jurisdiction

Council supports the proposed scope (section 7.46) to recover contributions related debt through a court of competent jurisdiction.

Issue 7: Savings provisions are required for existing contributions plans

The draft Bill does not detail the status of existing contributions plans if the Bill is adopted. The Bill should include an appropriate savings provisions to ensure existing contributions plans may continue and delivery of works funded by the plans is not undermined.

Issue 8: The commencement period for the changes should be staged

Given the nature of the changes and the impacts on councils, if passed by parliament, a staged commencement period may be more achievable than by 1 July 2022.

Issue 9: Supporting explanatory documents regarding the amendments should be publicly available

The Bill is enabling legislation, without in many instances, specific detail necessary to fully comment on its implications and effectiveness. This includes details on how the future provisions in regulations and Ministerial Directions will apply to contributions rates and infrastructure costings.

The Bill should be accompanied by explanatory material outlining the mechanics of how the initiatives in the Bill will be applied.