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Australia's property industry
Creating for Generations

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Mr Michael Cassell
Secretary
Department of Planning & Environment

Lodged via online portal

Dear Mr Cassell,

Re: Proposed Special Infrastructure Contribution – Pyrmont Peninsula

The Property Council is writing regarding the proposed Pyrmont Peninsula 'Special Infrastructure Contribution' (Pyrmont Contribution), currently on public exhibition by the Department of Planning & Environment (the Department). We thank you for the opportunity to comment on this important reform, please find our feedback below for your consideration.

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, including residential, industrial, office and retirement living.

In NSW, the property industry provides 390,000 jobs, pays $25.4 billion in wages and salaries and one in four people directly and indirectly draw their wage from the property industry – the industry is a significant economic contributor and already accounts $22.3 billion paid through existing taxes the NSW State and Local Governments, making the property industry the state's largest paying taxpayer paying 52.1% of total state and local government taxes and rates.

Pyrmont Contribution proposal

The Department is proposing a Special Infrastructure Contribution Determination, a Ministerial Direction and a Ministerial Order requiring development within the 'Pyrmont Special Contributions Area' to pay a mandatory financial contribution before an Occupation Certificate can be issued for completed development. This is due to come into effect in early 2022. Let's firstly be clear: this is a proposed new tax.The contributions proposed are as follows:

- $15,000 per new dwelling for residential development; and
- $200 per sqm of new gross floor area for non-residential development.

Comment around value-capture and value-sharing

In support of the proposed SIC, the Feasibility Analysis of Special infrastructure Contributions prepared by Atlas Economics makes reference to a "value sharing" role for contributions in the Pyrmont Peninsula:

"On 11 December 2020 the NSW Government announced a metro station at Pyrmont as part of Sydney Metro West project. The commitment to a metro station at Pyrmont foreshadowed a value share contribution mechanism would be applied to the Peninsula once Sydney Metro West opens, requiring some property owners who benefit from increased land values associated with the new station to make an annual contribution to offset the cost of the station. A one-off Transport Special Infrastructure Contribution (Transport SIC) would be applied to certain new developments ahead of the station's opening."

This approach to contributions is not supported by the Property Council, and is inconsistent with the Final Report of the NSW Productivity Commission on the Reform of Infrastructure Contributions, which seeks the curtailment of value-capture mechanisms in preference for mechanisms that reflect development contingent costs only.

The property industry is a significant economic contributor and already accounts $22.3 billion paid through existing taxes the NSW State and Local Governments, making the property industry the states largest paying taxpayer paying 52.1% of total state and local government taxes and rates.

The NSW Government collects significant revenues through existing property taxes such as stamp duties and land taxes. For example, in 2019-20, the Government collected almost $7 billion in stamp duty revenues and $4.5 billion of land tax.

Stamp duty is calculated based on market value of property transactions and land tax is calculated based on unimproved land values.

Any uplift in property or land values arising from the Pyrmont Metro Station will therefore already be realised as additional revenue for Government through these existing taxes and should not be taxed further through new forms of taxes or levies.

Recommendation: Given the significant stamp duty and land tax imposts already borne by property owners, the consideration of 'value capture' as a basis for new taxes, contributions and charges is not supported.

The proposed SIC needs to align with the NSW Government's infrastructure contributions reform agenda

In March last year, the NSW Government announced its support for the adoption of all of the NSW Productivity Commission's Recommendations for the reform of the state's infrastructure contribution framework.

This means that the present mixture of precinct-specific State Infrastructure Contributions will be replaced by a (generally lower) Regional Infrastructure Contributions applied universally across a regional catchment. The Regional Infrastructure Contribution rates proposed as part of the reform package for Greater Sydney are:

- $10,000 per apartment
- $30 per square metre of additional commercial or retail GFA

These rates do not include the Transport Project Component (TPC), which has yet to be released for consultation. In our submission regarding the reform package, the Property Council recommended the TPC be standardised by transport mode to enable industry to factor these costs into consideration. It is not anticipated the TPC would operate on a full cost recovery basis for metro rail project.

With this in mind we recommend the Pyrmont Peninsula SIC not proceed as it creates another transitional hurdle toward the implementation of the new contributions system. Should the Department still wish to proceed with the SIC, we recommend the contribution rates be reduced to the levels identified within the Department's exhibition package, inclusive of the discounted rates for the first three years.

Recommendation: the Pyrmont Peninsula SIC not proceed as it creates another transitional hurdle toward the implementation of the new contributions system. Should the Department still wish to proceed with the SIC, we recommend the contribution rates be reduced to the levels identified within the Department's exhibition package, inclusive of the discounted rates for the first three years.

Recommendation: The Department engage with industry peak bodies on the future Transport Project Component of Regional Infrastructure Contributions prior to the start of pubic exhibition, and these charges be standardised by transport mode across a particular region.

Annual contribution for commercial property owners

We also note that page 18 of the *Pyrmont Peninsula Place Strategy Implementation: Feasibility Analysis of Special Infrastructure Contributions,* references an **additional new annual contribution**, levied upon commercial property owners.

'Some commercial property owners (other than small businesses) that benefit from increased land values associated with the new station to make an annual contribution to offset the cost of building the station.'

There is no further detailed provided on this new annual contribution and we are unaware of any current legislation that would enable this to occur.

Any increase in land values will already be captured and taxed through the existing land tax regime, which is predominantly borne commercial property owners, given exemptions in place for owner occupiers.

Land taxes have the effect of reducing net income from a commercial property asset, which is the primary investment metric for such assets which are typically acquired with a long-term investment horizon.

Any increase in annual property tax costs would add to the holding costs of the asset and therefore further reduce net income. Aside from having a negative impact on values and investments into the NSW commercial property market, the economic impact of this new 'annual contribution' would be borne by either the business tenants of the building or owners of commercial properties, including the 16 million Australians invested in commercial property via their superannuation funds.

While land may not be able to be moved, capital is highly mobile and can be invested in other jurisdictions or other asset classes, for example, equities or bonds which do not attract either land tax or stamp duty. Both domestic and foreign capital is sensitive to increases in statutory and other fixed operational costs for commercial property, and institutional investors will naturally look to other more attractive markets and asset classes where the risk/return profile is more appealing.

Recommendation: NSW should position itself to be a fertile market to attract capital investment, in line with recent direction of the NSW Government. In addition, NSW should avoid the introduction of new taxes, in particular at this time when economic recovery remains a priority. In light of this, we very strongly recommend the Department set aside the proposed annual contribution for commercial property owners.

Slow COVID-19 recovery

The introduction of additional costs to property development and business will have a dampening effect on the economic recovery of the Sydney CBD post COVID-19. The Sydney CBD has suffered extensive losses of revenue and income over the past two years and imposing additional taxes will only slow economic recovery.

The economic prosperity of Sydney is vital, particularly as we face the challenge of economic recovery following the pandemic. The City of Sydney's Gross Regional Product is estimated at $130.22 billion, which represents 20.82% of the state's Gross State Product.

Lockdowns in the City of Sydney were estimated by Reuters to cost the broader economy around $1 billion each week of lockdown based on various economic estimates.

With the property industry proving to be a key driving force for both existing revenue through taxes and fees, and also a large provider of jobs for the state with 1 in 4 workers in the state drawing a wage from the property and construction industry, hampering the property industry with further burdensome taxes will slow the state's economic recovery capabilities drastically and following the points earlier regarding mobile capital will likely lead to NSW trailing in economic growth in the years ahead.

Recommendation: Considering the recent negative financial impacts COVID-19 has had upon commercial and retail premises in the Pyrmont area prior, we urge the Department to rescind the consideration for the introduction of the proposed annual contribution.

Cumulative impacts of contributions

We note that development within the Pyrmont Peninsula is already subject to extensive array of contributions, taxes and levies at local and state government level. This includes:

- Local infrastructure contributions levied under s.7.11 of the *Environmental Planning & Assessment Act 1979;*
- Mandatory affordable housing contributions of 1% of non-residential gross floor area and 3% of residential gross floor area;
- Any development that secures additional residential floor space area through a change in planning controls is required to pay 12% of the value of the additional floor area
- Payments required under 'voluntary planning agreements.'

Recommendation: We request the Department consider the cumulative negative impact of these new taxes upon development and ongoing investment viability, particularly the impact upon the end buyer, wider impacts upon housing affordability and economic activity in NSW.

Regular monitoring and review

Should the Pyrmont Contribution proceed, we request the Department establish a simple, transparent monitoring mechanism to determine the impacts of the contribution. Regular assessment of development activity and take up of development opportunities should be carried out, with results made publicly available, to monitor impacts and implications of the Pyrmont Contribution. We also request the Department commit to a 2-year public review of the contribution, in consultation with industry and stakeholders, to determine if the contribution is negatively impacting development on the Pyrmont Peninsula and should be amended or removed.

Recommendation: We request the Department establish a simple, transparent monitoring mechanism to determine the impacts of the contribution and commit to a 2-year public review to determine if there is a need to amend or remove the contribution.

We would like to request the opportunity to meet with you to highlight our concerns and discuss this issue further.

Please reach out to me on lachterstraat@propertycouncil.com.au or 0417 194 935.

Yours sincerely,

Luke Achterstraat
NSW Executive Director
Property Council of Australia