

**Submission  
No 35**

## **LAND RELEASE AND HOUSING SUPPLY IN NEW SOUTH WALES**

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# Land release and housing supply in New South Wales

Submission to the Legislative Assembly – Committee on Environment & Planning, prepared by **Urban Taskforce Australia**, September 2017

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## Terms of Reference

**The Committee on Environment and Planning inquire into and report on land release and housing supply in NSW, with particular focus on:**

**a) The resources and support needed within the Department of Planning and Environment for:**

**i. The delivery of a housing supply process**

- **Insufficient resources in the Department of Planning & Environment**

Currently, there is a substantial backlog of planning proposals lodged with the Department of Planning & Environment (the Department) which are awaiting assessment and finalisation. These planning proposals have the potential to deliver thousands of new dwellings to the NSW housing market. Lengthy, unnecessary delays in the rezoning process add additional costs to housing production, which has negative impacts upon housing affordability. Processing of these planning proposals should be prioritised when the Department is allocating staff and resources to projects, as a matter of urgency.

***Recommendation 1: Additional resources should be provided to the Department of Planning and Environment to process the backlog of planning proposals.***

- **Developer funded assessment of development applications and planning proposals**

In NSW, only the Minister for Planning or a local council can prepare a planning proposal resulting in rezoning of land or change in development controls. There is no mechanism for a developer or other third party to make changes to a local environmental plan.

There is also a significant lack of resourcing in some consent authorities, particularly in high-growth areas, to process development applications and rezoning proposals.

Where a council has indicated that they do not have capacity to process a planning proposal or development application, a private funder / developer and Council should be authorised to enter into an agreement for the preparation of a specific planning proposal or assessment of a development application where all associated costs are covered by the private funder/ developer and councils undertake the preparation and assessment of the planning proposal or development application.

A privately funded planning proposal or development assessment is where the required investigations and any other associated work in the preparation of a specific planning proposal or development assessment is funded by a third party, such as a developer, who may or may not benefit in some way from any change in zoning or the approval of the development application.

Privately / developer funded planning proposals are one model that can complement council and state government funded re-zonings, planning control changes and development assessments. A successful pilot program has been implemented in Victoria. Details of this are provided in the Case Study box below.

### **Case Study: Priority Paid Pilot Program model (Victoria)**

Working with the Victorian Planning Authority, Wyndham City Council is leading the program, designed to allow major landowners to resource the fast-tracking of development applications. The Priority Service will be available to all large scale, sequential developments within Wyndham (nominally 1,000 lots per developer). It is envisaged that this will ultimately apply to around 7-8 developers. The annual pilot fee is currently set at \$100,000 per developer per annum.

The program is designed to be transparent with all parties signing and adhering to a Memorandum of Understanding, signed in March 2017. Under the MOU, Council is required to meet Key Performance Indicators for application assessment, with objectives set by the State Government. The pilot will fund 10 new staff, including engineers, subdivision officers, architects and landscape planners, to assess and deal with the consent process from beginning to end.

The link to the Victorian Government's Streamlining for Growth Program is:

[www.vpa.vic.gov.au/Victorian-government-extending-streamlining-growth-program](http://www.vpa.vic.gov.au/Victorian-government-extending-streamlining-growth-program)

***Recommendation 2: The NSW Government should investigate implementing a similar program which would guide councils and state government in the assessment and processing of requests to undertake a privately / developer funded planning proposal or development assessment. This program should aim to ensure openness and transparency in the process, and to ensure an efficient, well-considered and consistent decision-making process.***

#### **ii. The coordination and funding of enabling infrastructure**

- **Concerns regarding 'un-capping' of local infrastructure contributions under Section 94 of the *Environmental Planning and Assessment Act 1979***

In 2008, due to the negative impacts of excessive development contributions on housing supply and affordability, the NSW government introduced a \$20,000 per dwelling conditional cap on infrastructure contributions in infill areas, with a \$30,000 cap in greenfield areas. The shortfall in infrastructure funding was covered by the Local Infrastructure Growth Scheme, funded by general revenue from the NSW Government. This system has worked successfully since this time, giving certainty for developers to acquire sites and to plan a pipeline of development and ensuring that the new local infrastructure is funded in an equitable manner.

In July 2017, the NSW Government announced that section 94 contributions would be 'uncapped', with the cap lifted incrementally until 2020 when there would no longer be any cap.

We anticipate that removing the cap on section 94 charges will allow councils to rapidly increase these charges to the point where they reach levels which compromise project viability.

Already, developers contemplating acquiring land for development have stopped these purchases due to the uncertainty associated with s94 contributions - as well as the myriad of other state and local government levies and taxes associated with property development - in the coming years. This will slow down the supply of housing and drive up house prices.

Increasing section 94 contributions also requires developers to accept excessive risk, as they must contribute additional money up front for the development.

We believe the removal of the cap will increase uncertainty, deter investment in the property development industry and will decrease the supply of homes to the market, which will escalate house prices further.

The existing capped section 94 charges are considered equitable, as the cost for local infrastructure is dispersed between the developer (who passes this cost onto the incoming home buyers) with the remaining cost paid from general taxation revenue through the LIGS program.

The removal of the cap on section 94 will create a significant burden on new home buyers. Requiring developers to pay upfront for all local infrastructure costs (who then pass this cost onto new home buyers) is essentially inequitable. Under the current system, the developer / new homebuyer shoulders the cost up to a capped point - \$20 for infill areas, \$30k for greenfield. After this, the state-funded local infrastructure growth scheme covers the remaining cost for local government through general taxation revenue. Generally, the whole community benefits from the new roads, parks and upgraded facilities funded through the section 94 contributions, not just the incoming residents and it is fair that general revenue is used to fund a portion of this infrastructure.

The NSW Government must ensure new homebuyers are not burdened with the cost of new facilities and services for infrastructure which is used by a much broader community.

***Recommendation 3: The Urban Taskforce does not support the removal of the cap of section 94 contributions. The NSW Government should continue to provide funding towards infrastructure from general revenue (generated from stamp duty and other taxes and levies paid by the property development industry) through the LIGS program, or consider raising the existing cap (for example, \$30,000 for infill areas and \$40,000 for greenfield).***

- **Special Infrastructure Contributions**

The NSW Department has indicated that there will be up to 12 additional Special Infrastructure Contribution (SIC) areas identified within NSW, which will each have an associated levy. These SICs will apply to priority precincts and other areas identified for growth and development. To date, there has been little information provided to industry on these SICs.

***Recommendation 4: The Urban Taskforce would welcome a clearer statement of the Government's position in relation to the application, apportionment, methodology and timing of these SICs.***

The application of SICs to new housing development directly results in an upfront cost on those projects which means house prices will rise and housing affordability will be negatively impacted in these areas. New homebuyers will pay the SIC as this cost is passed on to the consumer by the developer.

SICs also potentially have the effect of slowing land release as many developers, stretched to the limit already, will have their land potentially rendered unviable for development in the short term as they had not factored in this additional cost when purchasing the land.

It is also likely that development and housing supply will slow substantially once a SIC is in place. This is because the market place may not be able to bear the higher land costs that will be required to cover the cost of the SIC – particularly in the short term. There is a misguided belief that the cost of a SIC will simply be factored into the price of land. This is a simplistic interpretation of economic principles. The price of land is not nearly as elastic or as responsive to change as other costs of development. This is because land is a finite resource, and the owners of the land in areas where development is desirable are generally families who have lived in the area for a substantial amount of time. They have strong connections to their home and the surrounding community and are very unlikely to sell unless they can secure a windfall profit.

***Recommendation 5: SIC levies must not be excessive as this will have a negative impact upon housing supply and housing affordability, particularly within the Sydney Metropolitan area.***

- **Contributions, taxes, levies and fees must be considered holistically**

The progressive application of levies across NSW, and particularly the Sydney Metropolitan area, by various levels of government working in isolation is opposed by the Urban Taskforce. These include special infrastructure contributions, uncapped section 94 contributions, biodiversity offsets, increased foreign investor surcharges, affordable housing levies through inclusionary zoning, value capture levies, payments made through voluntary planning agreements, stamp duty and other taxes.

An independent and transparent governance structure is needed to provide oversight and to ensure that levies and fees are considered in a holistic, cumulative manner.

The Department of Planning and Environment is the agency best placed to have oversight of the fees, charges and levies, and should be required to proactively monitor the fees of charges applicable to property development and publicly report on these.

***Recommendation 6: The Department of Planning and Environment should monitor the cumulative impacts of fees, charges, levies and taxes on property development through local, state and federal government and report publicly every 6 months.***

**b) Delivery mechanisms following the rezoning of land through to construction**

The development assessment process in New South Wales is complicated and very slow. Unnecessary complexity often leads to additional costs to developers, in designing projects, complying with rules which deliver little value, working through outdated planning controls and spending money and time on unneeded consultant reports. Approval processes which are slow, complex, politicised or span multiple levels of government or across many agencies add considerably to the cost of housing and the time taken to deliver housing to market.

***Recommendation 7: Planning reform is needed in NSW to make planning frameworks simpler and approval processes less complex.***

**c) The complementary roles of state authorities, local councils and utilities**

The current development assessment and approval process is inefficient with little integration between agencies, proponent, councils and utility providers.

Currently, NSW development proponents must navigate the maze of state government agencies themselves, and often receive conflicting advice from different agencies, or even from different departments within the same agency. This makes development assessment a risky, time-consuming and confusing process.

The NSW Government should create an independent statutory body to work with councils, landowners and government agencies to coordinate approvals, referrals and concurrences, with a pro-development facilitation focus and a strong emphasis on providing timely, efficient customer service. This approach has been successfully implemented in Queensland. See the case study below for additional detail.

### **Case Study: State Assessment and Referral Agency (Queensland)**

The Queensland government introduced the State Assessment and Referral Agency in July 2013. SARA makes the Department of Infrastructure, Local Government and Planning the single lodgement and assessment point for all DA's where the state has a jurisdiction under planning legislation.

SARA streamlines the referral and assessment process and allows for concurrences and referrals associated with development to be assessed and determined quickly by SARA.

The SARA framework aims to help applications reduce application and project costs, timeframes and red tape, and increase certainty for development applications. SARA also seeks to implement a performance based, customer focused culture which is key to delivering successful and efficient development assessment outcomes. SARA also increases the transparency of what the NSW government assesses and clarity on where there are delays in the planning approval process.

**Website:** <http://www.dilgp.qld.gov.au/planning/development-assessment/state-assessment-and-referral-agency.html>

**Recommendation 8: The NSW Government should consider adopting a system like the SARA to streamline referrals and concurrences.**

#### **d) The different characteristics of Greater Sydney and non-metropolitan NSW**

All of NSW (Greater Sydney and non-metropolitan areas) are subject to the same planning system and face the same concerns regarding slowness in processing rezoning proposals and development applications, excessive fees, contributions and taxes and other issues.

Each region of NSW is unique and has different characteristics in terms of land prices, population growth and housing affordability.

Generally, regional projects tend to have lower sale values and properties may not sell as quickly, meaning it can be difficult for projects in regional areas to satisfy the requirements to obtain finance. This can cause delays to commencing a project, which constrains housing supply in this area.



Any reduction of development costs in these areas, such as government-funded infrastructure programs will allow developers in regional areas to bring housing to the markets sooner, which reduces price pressure in the market for established homes and stimulate economic activity.

**e) Other related matters.**

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