INFRASTRUCTURE CONTRIBUTIONS IN THE NORTH WEST AND SOUTH WEST GROWTH CENTRES POLICY PROPOSAL

1. INTRODUCTION

The NSW Urban Taskforce's report *What Infrastructure?* reveals that the total cost of infrastructure charges in the north west and south west growth centres could hit $14.1 billion. Local council infrastructure contributions could add up to $8.5 billion, on top of $5.6 billion already imposed by the State Government.

Local government is proposing a levy of $47,000 for each residential lot. When this figure is projected across all 181,000 new homes to be built in the growth centres, the total collected by local councils reaches $8.5 billion dollars.

Local government is planning on making home buyers pay for public facilities that aren't found in most parts of Sydney. It is a documented fact that these local government charges are supposed to pay for council-run wellness and massage facilities, beach volley ball courts, yoga and Pilates facilities and media/sound studios. Most Sydney residents do not expect their councils to provide these kinds of services.

Some of the state government's 'infrastructure' charges are very difficult for anyone to justify. For example, the charges include $398 million to buy up and protect 1,725 hectares of native vegetation outside Sydney's growth centres. This money won't benefit incoming residents as the protected land will be nowhere near their homes.

Our report shows that infrastructure charges are now so high that they are preventing any significant development in the growth centres. For a typical residential lot to be produced, a developer needs to pay $329,000, including $110,000 in government infrastructure charges. The average sale price for a serviced residential lot in the growth centres will be $300,000. The loss for each block of land a developer would produce is $29,000."

The State Government needs to urgently change its policy infrastructure charges in the growth centres. The Federal Government needs to accept that it has a national responsibility to help fund new infrastructure in new and growing cities. Governments will need to accept responsibility for financing the up-front costs of infrastructure, until sufficient revenues are raised from the sale of serviced lots to homebuyers.

The policy paper outlines the NSW Urban Taskforce's proposal.

2. THERE IS A LIMIT

While the idea of 'taxing the developer' may be politically popular, the prime burden of any such tax falls on the ordinary home buyer.

The home buyer suffers in two ways:

- less housing is delivered because increased costs make many projects economically unviable ; and
- when housing can be delivered it is more expensive than it otherwise would be.

Any potential resolution must come with an acceptance by both the state government and local councils that there is a limit to the amount of funds that can be raised from developer levies.

3. PRIORITISE THE INFRASTRUCTURE

Rather than developing wish lists of infrastructure to be funded by some sort of bottomless pit, government should start with a rational analysis of how much developers can be asked to pay without significantly impacting on the program of land release.

Infrastructure should then be prioritised according to its need. For example, infrastructure that is absolutely essential to the release of land in that area should take priority over infrastructure that is highly desirable, but not essential. If funds are limited, all of the former should be provided, but some of the latter may not be able to be provided.

For example, it would be apparent to most people that the construction of main roads, schools, police facilities and health facilities are essential, whilst construction of wellness/massage facilities, yoga and Pilates facilities, beach volley ball courts and media/sound studios should have a lower level of priority.

4. HAVE A SINGLE POOL OF FUNDS

This process of prioritisation is not happening at the moment, because there are two separate pools of money (section 94 contributions for local government and special infrastructure contributions for State Government) and no ascertainable limit being placed on the length of government wish lists.

Accordingly, the State Government has a policy where, in some circumstances developers may be asked to pay more than 100 per cent of State Government costs for infrastructure to service the developers' land, while on the other hand, the councils are proposing to fund the construction of massage rooms out of their pool of developer charges.

A single pool of funds should be created. That is, local, state and utility charges should be amalgamated into a single levy payable by the developer when the serviced land has been sold to the ordinary homebuyer.

This pool should consist of money raised for developer charges by a single levy (i.e. the existing section 94 contributions and the special infrastructure levy should be merged in the growth centres).

This pool of funds should be added to, as required, by the State Government and the Federal Government.

4. THE STATE GOVERNMENT TO DECIDE WHICH PROJECTS ARE FUNDED AND WHEN

The State Government would then be in a position to take a holistic view of the needs of the infrastructure of the growth centres. It would have responsibility for the entire amount of the developer chargers, and therefore would be able to limit them to a viable level.

The State Government could then make decisions that beach volley ball courts may need to come later, while available infrastructure funding is concentrated on roads, police, school, health facilities and more relevant sporting facilities.

Local councils could apply for funding for specific projects on a competitive basis, and receive money based on the merit of individual proposals versus other proposal competing for the available funds.

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Use of the levies should be restricted to roads, sewers, water, electricity, regional open space. Broader community and government needs, such as new hospitals, major improvements to public transport, new civic centres, etc should be funded by broader forms of taxation where the whole community contributes.

5. TIMING OF THE SINGLE INFRASTRUCTURE CHARGE

The current infrastructure charge has to be paid up-front, meaning a loan has to be taken out equal to at least 158 per cent of the value of the land to be developed. Frankly this is just about impossible.

This means any single infrastructure charge must not be upfront. The State Government is in a far better position to obtain finance over the period between rezoning and the sale of serviced land to the ordinary home buyer, than the individual developer. For this reason the charge could be levied at the point of sale from the developer to the homebuyer. The legal obligation to pay the charge would fall on the developer.

6. A CHARGE THAT IS PROPORTIONAL TO SALE VALUE

A flat charge per area of land neither reflects the ability of the developers of the land to pay the charge from sale proceeds, nor the actual cost of the infrastructure to be provided to that land.

The final sale price of serviced land in the growth centres is variable – ranging from $250,000 to $330,000 per 450 square metre residential lot. A charge that may appear viable, based on an average sale price, may unintentionally render development on lower value land uneconomic.

Furthermore a flat charge cannot be justified based on benefits received. Some lots will be relatively close to existing infrastructure, while some lots are quite distant. The cost of supplying new infrastructure will, therefore, be highly variable between lots.

This means that the best system may be one that relates the infrastructure charge to the ability of the developer of a given portion of land to pay. That is, a fixed percentage of the final sale price. Where a house and land is sold together, it would be a fixed percentage of the land value component. This would be simple and straightforward to administer by the NSW Government's Office of State Revenue.

7. PLANNING AGREEMENTS SHOULD NOT BE MISUSED

Even with reform of the statutory scheme of infrastructure charges, sensible safeguards also need to be introduced to prevent a defacto re-introduction of the current unsustainable levels of charges.

One way an unscrupulous planning authority can seek to impose excessive charges is by holding up a rezoning, pending a developer's agreement to a 'voluntary' planning agreement.

Such agreements have an important and useful role to play, where the developer is able to negotiate with a planning authority for a more tailored financing of an infrastructure program than that provided by the generic statutory charges. However, there is potential for a planning authority to hold-up a sensible and necessary re-zoning unless a developer agrees to a planning agreement that dramatically extends a developer's obligations – well beyond the legislative provisions.

This kind of situation can be avoided if there must be a credible right of appeal for proponents who are refused a rezoning. This could possibly involve the proposed Planning Commission recently flagged by the NSW Minister for Planning, the Hon. Frank Sartor MP.

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A right of appeal when a rezoning is not approved by a planning authority would enable an independent review of claims that a rezoning is consistent with a published strategy and is otherwise sound. This would greatly reduce the potential for a planning authority to abuse their powers by holding up rezoning pending developer consent to over-the-top planning agreements.

8. SECTION 94 CONTRIBUTIONS

The solution outlined in this paper involves the abolition of section 94 contributions in Sydney's growth centres.

This is not as radical as it sounds.

For example, there is no section 94 contribution for development on land subject to the City of Sydney Act 1988. Instead a condition can be imposed that the proponent pay a one per cent levy based on the cost of development.

Section 94 contributions have long been criticised heavily by economists, academics and lawyers. As long ago as 1998, a widely acknowledged expert on section 94 contributions, Dr Lindsay Taylor, observed in a published academic article that:

- section 94 contributions involve unnecessary red tape;
- contribution plans are inconsistent and involve unjustifiable costs and complexities;
- the implementation of requirements linking charges to actual developments is variable, complex and uncertain; and
- there are significant funding anomalies.