NSW Urban Taskforce

12 December 2007

The Hon. Frank Sartor, MP
Minister of Planning
Minister for Redfern Waterloo
Minister for the Arts
Level 34 Governor Macquarie Tower,
1 Farrer Place,
Sydney NSW 2000

Dear Minister

Re: Our response to the NSW Government's new policy framework on developer charges

The government's announcement on 12 October 2007 of a $25,000 cut in growth centre infrastructure charges is good news for home buyers. So is the extra $2 billion of funded state infrastructure. These changes will make it more financially viable for developers to sell new residential lots at an affordable price.

In our discussions with the NSW Government it has been apparent that the government is still opened minded about the detail of how its new framework will be applied. We have prepared a detailed policy response to the government's announcement: *Keeping Charges Low*. A copy is attached.

I will briefly highlight some of our key points.

Roll-out of policy framework in regional NSW

The release of amendments to the Parry and Tamworth local environment plans on 2 November 2007 introduced new compulsory levy requirements, not previously seen in regional NSW. These are the first plans to re-zone non-urban land to low density residential since the government's 12 October policy announcement on developer charges.

The new requirements mean that approval for a standard residential lot cannot be given by the local council unless the Department of Planning signs off on a financial contribution to transport, education, health and emergency services normally provided by the State. Previously these issues have been dealt with through negotiated voluntary agreements.

We believe that the Department of Planning has jumped the gun. The government's policy requires an infrastructure assessment – and no such assessment has been released. We've not been given any analysis on the impact these compulsory infrastructure charges will have on the viability of land release in regional NSW.

Furthermore the compulsory levies allow charges to be imposed for education, health and emergency facilities and services, but the policy says only the cost of land will be levied, not buildings or recurrent services.

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We are concerned that this method of implementation ignores the existing (inadequate) protections of the special infrastructure contribution framework in the *Environmental Planning and Assessment Act*. By using local environment plans (LEPs) to impose compulsory infrastructure levies, key provisions of the existing scheme are circumvented.

We ask the government to commit to implementing its system of compulsory infrastructure charges through express provisions in the *Environmental Planning and Assessment Act*, rather than LEPs, using the protections for the special infrastructure contribution levy and section 94 contributions as a starting point.

In many potential land release areas, the final sale value of a residential lot may be well below the $300,000 average sale price predicted in the Western Sydney growth centres. The viability of land release in these areas may be seriously undermined by an infrastructure charge that is set in isolation of market conditions and the final sale price of land.

We continue to believe that greenfield sites would be better served by a levy on the final sale price of land to the home buyer. This will ensure that in areas where the market price is lower, the burden of the charge is proportionally lower.

Introduction of conventional checks and balances

Given that government has announced an intention to introduce a greenfield infrastructure levies regime on a state-wide basis, it is important that the new scheme has the conventional checks and balances.

The scheme proposed by the government should be exposed to independent regulation and review, consistent with arrangements for existing charges (section 94 charges are oversighted by the Land and Environment Court and developer water, sewerage and stormwater charges are regulated by the Independent Pricing and Regulatory Tribunal).

Credible right of appeal

There must be a credible right of appeal on spot re-zoning decisions, possibly involving the proposed Planning Assessment Commission or a regional panel, when a proponent is able to argue that the re-zoning is consistent with a published strategy. This is necessary to avoid a de facto return to the current uncertainty through the use of planning agreements to extort disproportionately high 'voluntary' levies from developers prior to re-zoning decisions being made.

Up-front payment

The new policy means that a developer will have to pay 25 per cent of the state and local charges up-front, when a development application is granted. This could happen years in advance of an actual sale of land to home buyers.

The government had not deferred 75 per cent of the infrastructure cost as some have claimed - 75 per cent of the state infrastructure cost had been deferred, but 25 per cent of the section 94 cost had been brought forward and, because of this, the reduction in the up-front burden is relatively modest ($10,000 per lot, out of a total cost of $53,000).

Furthermore, an up-front section 94 contribution discourages the current practice of contributions in-kind through voluntary arrangements. These are typically not available at the development application stage.

This aspect of your policy encourages developer to only seek develop approvals over smaller areas that are most likely to be marketable in the short-term. The community will be better served if government encourages comprehensive planning with large master planned areas.

We believe the entire levy should only fall due when linen plan is finalised (subject to the possibility of a deferral if market conditions necessitate it).

Brownfield levies

The single circumstance where a brownfield levy could be considered is when it is clear that the value created by the additional charge for each development liable to pay it exceeds the cost of the charge.

The only areas that could sustain a compulsory charge are areas so run down or under-equipped in terms of infrastructure that they currently represent very low value as potential locations for brownfield development. For the purposes of discussion we have termed these areas as "special urban renewal areas".

The views of industry and property owners should determine whether or not a proposed charge in a particular special urban renewal area proceeds.

Where the State does impose a compulsory brownfield charge on a special urban renewal area other existing state/local and utility development charges should also be consolidated into the levy. This will help reduce unnecessary regulatory risk inherent in the current system of charges.

Any such levy should be payable on the issue of a construction certificate or, in the case of a sub-division – a final linen plan. Any such infrastructure charge in brownfield areas should be a fixed percentage of project costs.

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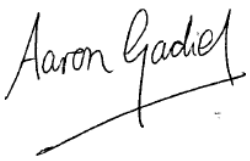
Thank you for the opportunity to contribute to the detail of your policy. Our office will contact your staff shortly to seek a meeting with you to discuss our recommendations.

Yours sincerely
NSW Urban Taskforce



Aaron Gadiel
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